By Mr. HAMILTON: Petition of citizens of Bangor, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of soldiers of Summitsville, Ind., for increase of pension for ex-prisoners of war (H. R. 15585)—to the Committee on Invalid Pensions.

By Mr. HASKINS: Petition of Eclipse Grange, of Thetford, Vt., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Petition of the First Congregational Church of Redwood City, Cal., for relief for Indians of California—to the Committee on Indian Affairs.

Also, petition of J. G. Watson et al., for relief of certain landless Indians in northern California—to the Committee on Indian Affairs.

Also, petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462 and 6001 (child-labor bills)—to the Committee on the District of Columbia.

Also, petition of citizens of Santa Clara County, Cal., for relief of Indians in California—to the Committee on Indian Affairs.

Also, petition of M. Bulman, against passage of bill H. R. 12973—to the Committee on Foreign Affairs.

By Mr. HILL of Connecticut: Paper to accompany bill for relief of William Carpenter—to the Committee on Invalid Pensions.

By Mr. HOUSTON: Paper to accompany bill for relief of estate of N. B. Reese (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. LAFEAN: Petition of A. B. Farquhar, of York, Pa., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. LIVINGSTON: Paper to accompany bill for relief of estate of Solomon Landis, of Fulton County, Ga.—to the Committee on War Claims.

By Mr. LOUD: Petition of many citizens of Michigan, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Rose City, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. PEARRE: Petition of citizens of Takoma Park, Md., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. REEDER: Petition of citizens of Glen Elder, Kans., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SCHNEEBELI: Petition of the Baltimore and Philadelphia Steamboat Company, against bill H. R. 17129 (on a patented article—to the Committee on Interstate and Foreign Commerce.

Also, petition of Henson & Pearson, the Provident Lumber Company, the Lumberman's Exchange, the W. M. Lloyd Company, and the H. C. Patterson Company, all of Philadelphia, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of William Petit—to the Committee on Pensions.

By Mr. SOUTHARD: Petition of Cuyahoga Lodge, No. 20, of the Brotherhood of Boiler Makers and Iron-ship Builders of America, for the shipping bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of M. C. Trout, urging that the Postmaster-General be required to show cause for issuing the fraud order against the People's Bank—to the Committee on Rules.

Also, petition of Katherine C. Murphy, Mrs. W. A. Somerville, and Mrs. Ella C. Magruder, for legislation to investigate the industrial condition of women in the United States—to the Committee on the District of Columbia.

Also, petition of numerous veteran soldiers of Ohio, for the Dalzell bill (H. R. 9)—to the Committee on Invalid Pensions.

By Mr. SPIGHT: Papers to accompany bill H. R. 17944, relative to a bridge across Tallahatchie River, Mississippi—to the Committee on Interstate and Foreign Commerce.

By Mr. TOWNSEND: Petition of Onsted (Mich.) Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Jackson County, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. WEEMS: Petition of R. P. Scott et al., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of Theodore T. Buell—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *April 12, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULBERSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

BUREAU OF ENGRAVING AND PRINTING.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Bureau of Engraving and Printing submitting an increase in the force provided for in the legislative, executive, and judicial appropriation bill as proposed by the House of Representatives, and heretofore paid from the appropriations for engraving and printing, and suggesting an amendment to the restrictive provision in connection therewith; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

FOREST RESERVES.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, in response to a resolution of the 5th instant, a statement of the amount of money that has been collected under the provisions of section 5 of an act entitled "An act providing for the transfer of forest reserves from the Interior Department to the Department of Agriculture," approved February 1, 1905, and the approximate estimate of the amount that will be collected during the present fiscal year, etc.; which, on motion of Mr. HEYBURN, was ordered to lie on the table, and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills with amendments; in which it requested the concurrence of the Senate:

S. 980. An act to authorize the sale of a portion of the Lower Brule Reservation in South Dakota, and for other purposes; and

S. 2188. An act granting to the city of Durango, in the State of Colorado, certain lands therein described for water reservoirs.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 6158. An act granting an increase of pension to Henry Rittenhouse;

H. R. 6401. An act granting an increase of pension to William V. Van Ostern;

H. R. 9924. An act granting an increase of pension to Carrie A. Conley;

H. R. 11748. An act granting an increase of pension to James Wilson; and

H. R. 13010. An act granting an increase of pension to Alice B. Hartshorne.

The message further announced that the House had passed a bill (H. R. 12872) to amend an act entitled "An act to amend and codify the laws relating to municipal corporations in the district of Alaska," approved April 28, 1904; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

S. 3292. An act to incorporate the Grand Council of the United States of the Improved Order of Red Men;

S. 4168. An act to correct a typographical error in act approved July 1, 1898, entitled "An act to vest in the Commissioners of the District of Columbia control of street parking in said District;"

S. 4302. An act to amend the provision in an act approved March 3, 1899, imposing a charge for tuition on nonresident pupils in the public schools of the District of Columbia;

S. 4426. An act to amend section 927 of the Code of Law for the District of Columbia, relating to insane criminals; and

H. R. 12843. An act to amend the seventh section of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, and the several acts amendatory thereto.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Flatbush Taxpayers' Association, of Brooklyn, N. Y., praying for the enactment of legislation providing for the construction of a United States battle ship at the Brooklyn Navy-Yard; which was referred to the Committee on Naval Affairs.

Mr. FRYE presented a petition of the board of aldermen and common council of Bridgeport, Me., praying for the enactment of legislation to establish national forest reserves in the Appalachian and White Mountains; which was ordered to lie on the table.

Mr. PROCTOR presented a petition of Green Mountain Council, No. 5, Daughters of Liberty, of Newport Center, Vt., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Shakespeare Club of Lyndonville, Vt., praying that an appropriation be made for a scientific investigation into the industrial conditions of women in the United States; which was referred to the Committee on Education and Labor.

Mr. GALLINGER presented a petition of Concord Lodge, No. 537, Brotherhood of Railroad Trainmen, of Concord, N. H., and a petition of Unionville Council, No. 159, Junior Order of United American Mechanics, of Sandy Bottom, Va., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented a petition of the Citizens' Northwest Suburban Association, of Washington, D. C., praying for the enactment of legislation providing for the purchase of additional land for the extension of Rock Creek Park; which was referred to the Committee on the District of Columbia.

Mr. HEYBURN presented an affidavit to accompany the bill (S. 5212) to correct the military record of John J. Muehleisen; which was referred to the Committee on Military Affairs.

Mr. RAYNER (for Mr. GORMAN) presented an affidavit to accompany the bill (S. 2129) for the relief of the vestry of St. Paul's Protestant Episcopal Church, situated near Point of Rocks, Md.; which was referred to the Committee on Claims.

He also (for Mr. GORMAN), presented an affidavit to accompany the bill (S. 2728) granting an increase of pension to Louisa Carr; which was referred to the Committee on Pensions.

Mr. KNOX presented a memorial of the Pittsburg Steel Construction Company, of Pittsburg, Pa., and a memorial of Alexander Laughlin & Co., of Pittsburg, Pa., remonstrating against the passage of the so-called "anti-injunction bill;" which were referred to the Committee on the Judiciary.

He also presented memorials of L. H. Workman, of Farmington; Robert Buist Company, of Philadelphia; National Nitro-Culture Company, of West Chester; M. H. Haines, of Rossiter; Henry A. Dreer, of Philadelphia; Charles M. Weaver, of Ronks, and of S. L. Allen & Co., of Philadelphia, all in the State of Pennsylvania, and of Peter Henderson & Co., of New York City, N. Y., remonstrating against the enactment of legislation providing for an appropriation for the distribution of free seeds; which were referred to the Committee on Agriculture and Forestry.

He also presented petitions of C. W. Biddinger, of Steelton; William Dreosbach, of Philadelphia; J. C. Singleton, of McKees Rocks; F. J. Crow, of McKees Rocks, and of Council No. 282, Junior Order United American Mechanics, of Wilkesbarre, all in the State of Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

He also presented petitions of E. C. Little, of Washington; Alex. Reed, of Washington, and Hawthorne Avenue Presbyterian Church, of Crafton, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented memorials of The Bible Workers' Band, of the First Baptist Church of Homestead; the South Side Branch, Woman's Christian Temperance Union, of Pittsburg, and of 10 citizens of Homewood, Pittsburg, all in the State of Pennsylvania, remonstrating against the repeal of the present anti-canteen law; which were referred to the Committee on Military Affairs.

He also presented petitions of John M. Gallaghet, of Pittsburg; 3 citizens of Leechburg; Alfred F. Edgell, of Philadelphia; John S. Hang, of West Philadelphia; T Square Club, of Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation to prevent the destruction of Niagara Falls on the American side by the diversion of the waters for manufacturing purposes; which were referred to the Committee on Forest Reservations and the Protection of Game.

CONDITIONS IN THE KONGO FREE STATE.

Mr. MORGAN. I present a memorial from the Kongo Reform Association, a very large, intelligent, and powerful body of men. I am not quite sure but that the President of the Senate several days ago presented a similar memorial. I now present it with the request that it be inserted in the RECORD, and also that it be printed as a document. I do not care to detain the Senate by having it read, because Senators, I think, will read it with great interest, and the reading at this moment would produce no impression upon the country.

There being no objection, the memorial was ordered to lie on the table, to be printed as a document, and to be printed in the RECORD, as follows:

To the Congress of the United States of America:

In pursuance of the end sought in memorials heretofore addressed to you in the interest of the people of the Kongo State by members of our association in many parts of the country we would most respectfully ask your attention to the following statements:

We have learned with satisfaction that the State Department, while recognizing that our Government does not share the powers of the Berlin signatories, is prepared to give careful consideration to all information regarding conditions in the Kongo State, and to any suggestions that may be offered as to forms of action believed to be open to our Government.

NEW MISSIONARY TESTIMONY.

As respects the facts of the situation, we beg to submit to you the inclosed documents, one of which (Document A) contains the signature of fifty-two missionaries, being a unanimous expression by a conference held at Kinchassa (Stanley Pool), Africa, January 11, 1906, which was representative of six nationalities and of six well-known organizations engaged in mission work in the Kongo State. Of these missionaries, nineteen are connected with American missionary societies.

We would particularly call your attention to the following paragraphs in this document:

"We had hoped when we last met two years ago that some amelioration of the unhappy condition of things existing would be effected, but we profoundly regret to state that in many parts of the land this condition is still unaltered.

"We have never been other than loyal to the State, and have borne this and other grievances, which we would have more strongly protested against but that we hoped they were only a passing phase of affairs.

"We have no object in view but that of the interests of humanity and the desire that the natives shall not be caused to disappear from off the face of the earth. And so we would utter again our solemn protest against the terrible state of affairs still existing in the Kongo State, and we appeal in the name of justice, liberty, and humanity to those who value these blessings to help in every lawful way to secure them for all the Kongo peoples."

FINDINGS OF THE COMMISSION OF INQUIRY.

The second document (Document B) presents citations made from the report to King Leopold by the commission of inquiry appointed by him. The selections herein made from this report present passages relating to the condition of the native people. It appears to us that these passages should be viewed independently of other points treated in the report of the commission. Whether the wholesale defeat of the aims in view in the recognition of the Kongo State is excusable because of adverse conditions; whether the enterprise of the State in the construction of public works counterbalances the oppression, enslavement, and threatened extermination of the people; whether any alleged improvement in conditions is permanent, and extends beyond the little section visited in the vast territory; whether laws upon the statute books have been sincere, or otherwise; whether the reforms suggested are adequate and properly guaranteed; whether the present system of enforced labor is justified and must be continued; all these, we believe, are questions for consideration by a responsible tribunal, and should not be confused with the one vital question now at issue, the condition of the people under the rule of the Kongo government.

THE TESTIMONY HEARD BY THE COMMISSION.

The third document (Document C) is submitted with a view to remedying a grave defect in the report of the commission of inquiry. The Kongo government has failed to make accessible to the public, and to other governments, the evidence presented at its hearings. It seems to us that this course, which would not be tolerated in any civilized country in a case of importance, is the more to be regretted in this instance in view of the ex parte character of the commission's appointment, and the gravity of the interests affected. We would respectfully urge that the publication of this evidence by the Kongo government shall be requested by you. As a provisional substitute for such publication, we present the statements of witnesses in the accompanying document. The fact that their authors declare these statements to be a reproduction of records of the commission now on file at Brussels—a representation which may at once be disproved if it is unreliable—gives us additional confidence in calling your attention to the shocking disclosures thus made.

INTERNATIONAL ACTION A NECESSITY.

With reference to the condition thus disclosed, we would respectfully urge that international action is a necessity. The Kongo Government evidently is disqualified for dealing satisfactorily with the existing situation, in view of its alleged responsibility for the wrongs reported, and of its acknowledged commitment to maintenance of the system of territorial monopolization to which it is declared these wrongs are directly traceable.

As respects the procedure to be chosen by our Government in promoting the desired international action, it is obviously unfitting that we should attempt decision, yet, in view of the expression made to us by the State Department, we beg leave to offer the following suggestions:

RELATION OF THE UNITED STATES GOVERNMENT TO THE BERLIN SIGNATORIES.

We would respectfully call your attention to the fact that, while it is plain our Government does not share the supervisory powers belonging to the signatories of the general act of the Berlin conference, it is equally clear that our Government is not to be regarded as having cut itself aloof from the body composing the conference at Berlin; for, when this body, five years after its meeting at Berlin, was reconvened at Brussels, the United States Government, by virtue of its original relations to the issues under consideration and its presence and influence at Berlin, was invited to participate in the conference; and, while careful to avoid any form of action implying full ratification of the Berlin act, our representatives, in response to the urgent request of their associates, and under cabled advice from the United States Government, were full participants in the action taken. We would, therefore, urge that, by virtue of this renewal of relations with the powers having

supervisory relation to the administration of the Kongo State, we may at this juncture with entire propriety suggest to the powers the importance of meeting again for consideration of the grave reports now current, and may also without impropriety participate in the discussions of such meetings, while declining to act in provisions implying definitely supervisory functions.

It may be noted that assurance of recognition by the powers of the propriety of such manifestation of concern is afforded by the desire so strongly expressed at Brussels for continued participation by our Government in the settlement of issues in the Kongo territory. It will be recalled that one important action of the conference at Brussels was modified in form because, as the president, a representative of Belgium, stated, a different form of proceduce would be "desirable in view of facilitating the accession to the treaty of a great power, which, from the very beginning of the labors of the conference, has given token of its sincere sympathy with the work undertaken and of the cooperation which it is disposed to give it, a cooperation which the conference has great interest in receiving."

POWERS AND OBLIGATIONS UNDER THE BRUSSELS ACT.

We would further ask your attention to the fact that the Brussels conference, regarded independently of its relations to the preceding conference, apparently offers ground for action by our Government. You will recall that this conference represented a joint cooperative effort for relief of conditions in the Kongo territory. While dealing primarily with measures for "repression of the African slave trade," it was animated by a purpose of larger scope disclosed by the declaration of its aim of "effectively protecting the original population of Africa and securing for this vast continent the benefits of peace and civilization."

Certain engagements were entered into by the powers administering government in the designated territory, certain other engagements falling to the contiguous powers and certain minor engagements belonging to all the signatories; but all alike committed themselves to the cooperative purpose represented by the conference. It would appear also that the United States Government was a full signatory of the general act of Brussels, France alone ratifying the agreement partially, as is indicated by the protocol signed at Brussels January 2, 1892. The reservation made in the action of the United States was of the character of a memorandum presenting an interpretation of the scope of the act, an interpretation conceded by the other signatory powers.

We recall that the President of the United States, in making publication of the general act of Brussels, states that it was duly ratified, together with the protocol of January 2, by the United States Government, and adds that the act is "made public to the end that the same, and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof."

We would urge that, under the general act of Brussels, our Government is entitled to suggest to the powers the propriety and importance of instituting an inquiry to determine whether the government of the Kongo State, by its permission of conditions reproducing the worst horrors of the slave trade, is not in violation of the spirit, and of certain specific engagements, of its agreement under the act of Brussels, and that it may inquire, further, whether the system of monopolization of territory and products maintained and enforced by the Kongo government is not itself fatally hostile to the discharge of the engagements contracted by the government in the act of Brussels and thus fatal to the purpose of the powers as represented by that act. It would further appear that our Government, having the power, is under obligation to take this course in view of the extreme gravity of current reports.

It is noteworthy that, in its treaty with the Kongo State, our Government makes mention of the obligations which that State has contracted by virtue of the act of Brussels, and indicates its desire to facilitate discharge of these obligations (Article X).

OTHER INDEPENDENT GROUNDS OF ACTION.

While holding, as we have thus indicated, that our Government is entitled to participate in the proposed international consideration of conditons in the Kongo State, and that it is important that at this juncture it shall discharge its full responsibility for the protection of a cruelly wronged people, we would ask your attention to the treaty relations sustained by the United States to the Kongo Government. The treaty pledged "full, entire, and reciprocal liberty of commerce," and provides that "the citizens of the United States can freely exercise their industry or their business in the whole extent" of the territory of the Kongo State, a provision with which the commercial system maintained in the Kongo State is in direct conflict. It provides also for resort to a tribunal of arbitration "in case difference of views shall arise respecting the maintenance, obligation, or interpretation of any provision of the engagement."

It is apparent that yet another form of action is open to our Government, which has certain rights by virtue of its membership in the family of nations. The reserved right belonging to individuals and nations to protest against iniquity and to intervene for the protection of helpless victims of oppression is inalienable with our Government.

HISTORICAL POSITION OF OUR GOVERNMENT.

The Kongo Reform Association, representing citizens of all sections of the country, irrespective of party or religious connection, is deeply concerned that our Government shall not fail to discharge its just obligations for relief of the unjust and cruel conditions to which we have invited your attention. We recall the interest taken by the United States in the avowed philanthropic mission of the Kongo State, the recognition promptly extended to it, and the favor shown to it at critical periods of its history.

The position of our Government, as defined by its relation to the conferences, would seem to give us a unique advantage in that we have conspicuously declined to accept any form of political benefit in this territory, and may, therefore, act for the protection if its people without suspicion of other than high and generous motives. We recall that in entering the conference at Berlin our representative, Mr. Terrell, said: "The Government of the United States has wished to show the great interest and deep sympathy it feels in the great work of philanthropy which the conference seeks to realize. Our country must feel beyond all others an immense interest in the work of this assembly." In urging a full participation by our Government in the action of the conference, it was remarked by a prominent member of that body: "We attach the highest value to the cooperation of the United States in our work. We know that their traditional policy is to stand aloof from the treaties and political arrangements of European nations, but the work which we are carrying on is purely humanitarian; its only object is the extinction of the slave trade and the improvement of the negro's lot—an object for which the United States has so often poured out blood and treasure."

The president of the conference, Baron Lambermont, a representative of Belgium, remarked: "The president continues to hope that the Government of the United States, which was the first to recognize the Kongo Free State, will not be one of the last to give it the assistance of which it may stand in need."

With an unfaltering confidence that the action taken by our Government will be in accord with these generous sentiments, and that through it this people, disfranchised of the sacred rights of life, liberty, and the pursuit of happiness, may rise at length from their low estate to that place in the commonwealth of nations for which development under a just rule may fit them, our communication is respectfully submitted.

G. Stanley Hall, Samuel B. Capen, Benjamin F. Trueblood, John R. Gow, Wm. E. Huntington, Herbert S. Johnson, Frederick B. Allen, Edward H. Clement, Edward M. Hartwell, Thomas Lacey, Charles F. Dole, Edward W. Capen, Edwin D. Mead, Everett D. Burr, Charles Fleischer, Thomas S. Barbour, local committee of the Kongo Reform Association.

HUGH P. MCCORMICK,
Corresponding Secretary.

BOSTON, MASS., *March 30, 1906.*

DOCUMENT A.

An appeal from missionaries in the Kongo State.

KINCHASSA, STANLEY POOL,
KONGO INDEPENDENT STATE,
January 11, 1906.

We, the undersigned evangelical missionaries from Great Britain, the United States of America, Canada, Germany, Sweden, Norway, and Denmark, working on the Kongo, many of whom have been in the country for over twenty years, being assembled at our third general conference at Kinchassa, Stanley Pool, desire to place on record our views as to the present state of affairs in this country. We had hoped when we last met two years ago that some amelioration of the unhappy condition of things existing would be effected, but we profoundly regret to state that in many parts of the land this condition is still unaltered.

We are greatly disappointed that the memorial presented to the sovereign of the state, through the governor-general, on 1st of March, 1904, has elicited no reply.

We regret that the report of the commission of inquiry as published does not convey to the general public an adequate impression of what has occurred, since so much evidence presented has been omitted or only referred to in very modified terms.

Although we recognize the courtesy of the commissioners and their impartiality in hearing evidence and feel gratified by the fact that their findings have entirely justified the attitude taken by missionaries and others in exposing the terrible state of affairs, we still feel that the reforms suggested are merely palliative, leaving untouched the main root of the evil, which we all recognize to be the system in force. On the one hand this system, wherever applied, robs the native of his right to the free use of the land and its products and, on the other, compels him to labor as a serf under the name of taxation, while for the most part practically nothing is being done for the good of the natives thus taxed.

We are convinced that the atrocities, which have been abundantly proved, and which still continue to be perpetrated, no less than the general oppression resulting from this so-called "taxation," are the natural outcome of the system adopted, of the radical alteration of which we see no sign.

Several missionaries present [from the interior] have testified that the acts of oppression complained of are still practiced, and, despite the recommendations of the commission, practically no attempts have been made to change the old régime. We earnestly protest against this continued disregard of all the appeals and evidence laid before the authorities.

We also emphatically protest against the repeated refusal to sell sites for mission stations to our societies, contrary to the provisions of the general act of the conference of Berlin. We have never been other than loyal to the State, and have borne this and other grievances which we would have more strongly protested against but that we hoped they were only a passing phase of affairs.

We have no object in view but that of the interests of humanity and the desire that the natives shall not be caused to disappear from off the face of the earth. And so we would utter again our solemn protest against the terrible state of affairs still existing in the Kongo State, and we appeal in the name of justice, liberty, and humanity to those who value these blessings to help in every lawful way to secure them for all the Kongo peoples.

Trusting in Almighty God, we send forth this our protest and appeal.

Alexander L. Bain, A. B. M. U.; Hilda Bain, A. B. M. U.; Fred'k Beale, C. B. M.; George R. R. Cameron, B. M. S.; Josephine M. Cameron, B. M. S.; Ernest Cartwright, C. B. M.; Emil Cederblom, S. M. S.; James A. Clark, B. M. S.; Joseph Clark, A. B. M. U.; Lawson Forfeitt, B. M. S.; Mary Forfeitt, B. M. S.; Peter Frederickson, A. B. M. U.; Matilda R. Frederickson, A. B. M. U.; Horace S. Camman, C. B. M.; Viola C. Camman, C. B. M.; J. O. Gotaas, A. B. M. U.; H. H. C. Graham, B. M. S.; George Grenfell, B. M. S.; W. A. Hall, A. B. M. U.; Charles H. Harvey, A. B. M. U.; H. P. Hawkins, A. P. C. M.; A. F. Hensey, F. C. M. S.; Thomas Hill, A. B. M. U.; Clara E. Hill, A. B. M. U.; John Howell, B. M. S.; Emmeline Howell, B. M. S.; George S. Jeffrey, C. B. M.; Rose Jeffrey, C. B. M.; R. Lanyon Jennings, B. M. S.; Hilda H. Jennings, B. M. S.; K. E. Laman, S. M. S.; W. H. Leslie, M. D., A. B. M. U.; Clara H. Leslie, A. B. M. U.; Thomas Lewis, B. M. S.; Gwen. E. Lewis, B. M. S.; Catharine L. R. Mabie, M. D., A. B. M. U.; Paul C. Metzger, A. B. M. U.; Thomas Moody, A. B. M. U.; Seymour E. Moon, A. B. M. U.; T. Hope Morgan, C. B. M.; E. Louise Morgan, C. B. M.; G. N. Nykvist, S. M. S.; H. Richards, A. B. M. U.; A. E. Scrivener, B. M. S.; J. R. M. Stephens, B. M. S.; Alfred R. Stonelake, B. M. S.; Ellen S. Stonelake, B. M. S.; Ernst Storm, S. M. S.; Ester Storm, S. M. S.; H. Wallbaum, C. B. M.; Margaret Wallbaum, C. B. M.; Martin Westling, S. M. S.

NOTE.—A. B. M. U. stands for American Baptist Missionary Union; A. P. C. M. for American Presbyterian Congo Mission; B. M. S. for Baptist Missionary Society; C. B. M. for Congo Balolo Mission; F. C. M. S. for Foreign Christian Missionary Society, and S. M. S. for Swedish Missionary Society.

DOCUMENT B.

Extracts from the Commission's report.[a]

MATERIAL DEVELOPMENT.

In this sinister and mysterious continent a state has become constituted and organized with a marvelous rapidity, introducing into the heart of Africa the benefits of civilization. To-day security reigns in this immense territory. Almost everywhere the white man, where not animated with hostile intentions, can penetrate without escort or arms.

Towns resembling our most coquettish seaside resorts, which lighten up and animate the banks of the great river; and the two rail heads of the Lower Congo Railway—Matadi, where the ocean steamers arrive, and Leopoldville,[b] the great fluvial port, with the activity of its dockyards, make one think of busy European cities.

GOVERNMENT FIRMLY ESTABLISHED.

With a limited number of officials the State has accomplished the task of effectively occupying and administering its great domain. By the wise distribution of its government stations it has succeeded in coming into contact with what is practically the whole native population. The villages are now few which fail to recognize the authority of "Boula Matadi." Reports received periodically enable it to profit immediately from the experience of its 2,000 agents. On its side it lets its directing power be felt. From instructions constantly forwarded to the department chiefs it makes known a programme to be followed by the officials of every grade. The unity of administration is found everywhere.

APPROPRIATION OF LAND AND PRODUCTS.

In default of a legal definition, it seems to have been generally admitted on the Kongo that lands considered as being occupied by the natives are exclusively the portions of territory upon which they have established their villages or raised their plantations.

It has even been admitted that on the land occupied by them, the natives can not dispose of the produce of the soil except to the extent in which they did so before the constitution of the State.

As the greater portion of the land in the Kongo is not under cultivation, this interpretation concedes to the State a right of absolute and exclusive ownership over virtually the whole of the land,[c] with this consequence: That it can dispose—itself and solely—of all the products of the soil; prosecute as a poacher anyone who takes from that land the least of its fruits, or as a receiver of stolen goods anyone who receives such fruit.

THE NATIVE—POSSESSES NOTHING.

There are no native reserves, and, apart from the rough plantations which barely suffice to feed the natives themselves and to supply the stations, all the fruits of the soil are considered as the property of the State or of the concessionaire societies. Thus, although the freedom of trade is formally recognized by law, the native does not own in many places the objects which constitute trade.

CHANGE OF RESIDENCE PROHIBITED.

The laws of the State guarantee in the most absolute manner the personal liberty of the natives who enjoy, in the same manner as the white man, the right of traveling all over the territory. Such, moreover, is the doctrine of the courts, who have affirmed this incontestable right. However, the local government has in recent circulars appeared to contest, if not the strict right, at least the possibility of the native displacing himself. These circulars, based upon the principle that all land not effectively occupied belongs to the State, deduce therefrom the consequence that the native can not settle elsewhere than in the village where he was born without obtaining the authorization of the State beforehand.

The activity of the natives is thus limited to very restricted areas, and their economic condition is immobilized. Thus abusively applied such legislation would prevent any development of native life. In this manner not only has the native been often forbidden to shift his village, but he has even been forbidden to visit, even temporarily, a neighboring village without special permit. A native displacing himself without being the bearer of such an authorization would leave himself open to arrest, to be taken back and even punished.

ALL PRODUCTS CLAIMED BY THE STATE.

The labor tax is the only impost possible on the Kongo, because the native, as a general rule, possesses nothing beyond his hut, his weapons, and a few plantations strictly necessary for his subsistence.[d]

It is useful to point out that according to the arrete of 5th October, 1889, "any person can use his weapons to defend his life or property threatened by one or several elephants. If the adoption of such measures lead to the capture or the death of the elephant, the animal must be handed over to the district commissioner."

DEFENSE OF SMALL PAYMENT MADE TO NATIVES FOR PRODUCTS OF COUNTRY.

It is just, on the other hand, that remuneration should be limited to the value of the labor furnished by the native, and that he should not be paid according to the value of the produce obtainable by his work, because as a rule the produce does not belong to him—he merely furnishes the work necessary to secure it.

COLLECTION OF PRODUCTS AND BONUSES TO AGENTS.

Each official in charge of a station, or agent in charge of a factory, claimed from the natives, without asking himself on what grounds, the most divers imposts in labor or in kind, either to satisfy his own needs and those of his station, or to exploit the riches of the domain.

When the agent was reasonable, he endeavored to conciliate the interests of the State or the companies with those of the natives, and sometimes he obtained much without violent measures, but numbers of agents only thought of one thing—to obtain as much as possible in the shortest possible time; and their demands were often excessive. This is not at all astonishing, at any rate as regards the gathering of the produce of the domain. For the agents themselves regulated the tax and saw to its collection and had a direct interest in increasing its amount, since they received proportional bonuses on the produce thus collected.[e]

THE FOOD TAX.

The population in the first zone must furnish the kwanga every four days; those in the second, every eight days; those in the third, every twelve days. Such is the system. Its inconveniences can immediately be observed. All the witnesses heard by the commission have been unanimous in criticising, notably the exaggerated quantity imposed upon the women of certain villages, the continuity of the imposition, and the long journeys demanded of the taxpayers. The most painful aspect of this tax is its continuity. As kwanga only keeps for a few days, the native, even by duplicating his activity, can not succeed in liberating himself from the imposition for a lengthy period. This imposition, even if it does not demand the whole of his time, weighs upon him continually by the short time elapsing between the supplies he has to furnish, which causes the tax to lose its true character and transforms it into a veritable corvee, since there is always with him the thought of the delivery that must soon be made.

These carriers are the people who constitute the industrious element in the village, and if the greater part of their time is absorbed by the exigencies of the tax and the necessity of providing for their own sustenance, they have barely the time, even if they show good will, to devote themselves to anything else; whence comes the abandonment of native industries and the incontestible impoverishment of the villages. Missionaries, both Catholic and Protestant, whom we heard at Leopoldville, were unanimous in accentuating the general wretchedness existing in the region. One of them said that "this system, which compels the natives to feed 3,000 workmen at Leopoldville, will, if continued for another five years, wipe out the population of the district."

It is not admissible that one should be compelled to travel 150 kilometers (94 miles) to bring to the place of delivery a tax representing a value of about 1½ francs (30 cents).

As for the sheep, the goats, the fowls, and the ducks, the commission was able to observe for itself their increasing scarcity, and consequently their dearness. What is the reason for this impoverishment? Precisely because these animals, instead of being an object of commerce, are demanded as a tax, often in a most arbitrary fashion. The native who only receives remuneration insufficient in his eyes, and in any case notably inferior to the real value, is not in the least encouraged to breed goats or fowls.

Apart from a few kilograms of fresh fish for the white men, which are generally furnished without difficulty, virtually the entire produce of native fisheries consists in rations of dried fish for the black workmen. This imposition gives rise to the same inconveniencies as in the case of the kwanga imposition. Almost everywhere the quantities demanded have given rise to complaints, especially on the part of chiefs of villages, the population of which had decreased, and which were taxed disproportionally to the number of their inhabitants. We found that, some of the banks of the river being sparsely populated, stations like those of Nouvelle Anvers, for instance, were compelled to call in the services of fishermen a long way off. Natives inhabiting the neighborhood of Lulonga were compelled to travel in canoes to Nouvelle Anvers, a journey of from 40 to 50 miles, every fortnight, to bring their fish, and taxpayers have been imprisoned for delays which were, perhaps, not attributable to them, if one bears in mind the considerable distances to be traversed to satisfy the demands made by the imposition.[b]

THE PORTERAGE SYSTEM.

Judicial officials have informed us of the sorry consequences of the porterage system; it exhausts the wretched people who are subjected to it, and threatens them with partial destruction.[c]

RUBBER COLLECTION.

This circumstance—exhaustion of the rubber—explains the repugnance of the native for rubber work, which, in itself, is not particularly painful. In the majority of cases the native must go one or two days' march every fortnight, until he arrives at that part of the forest where the rubber vines can be met with in a certain degree of abundance.

[a] These representative extracts are carefully verified translations of the original French of the report, indorsed as accurate by the local committee of the association.

[b] Regarding the condition of the natives of this region, the commission speaks in a later paragraph: "The general wretchedness, etc." See p. 24. Compare with this the description given of the State's school at Boma, p. 35. Of like import is the statement in the memorial to Congress, April, 1904: "Certain material enterprises, as the railway, bear witness to great energy and perseverance, though identified with terrible cost to the lives of the natives; but these enterprises are connected directly with the one aim which, unhappily, seems to have absorbed the energies of government—that of enriching itself by a swift exploitation of the natural products of the State."

[c] The claim leading to this appropriation by the government of the vast Kongo territory first appeared in a document issued July 1, 1885, which at the time was supposed to be dictated by concern for the rights of the natives. It declared that "no one may dispossess any native of land occupied by him," adding that "all vacant land is considered as belonging to the State." Later, through successive public edicts, the breadth of the term "vacant" became apparent.

[d] The report states that "some products have been allowed to the natives;" in instances "palm kernels, which form the object of an important export trade in the lower Kongo." It should be borne in mind that it is only in this territory of the lower Kongo, a district representing but the one-hundredth part of the area of the State, that any form of trade is found. Above Stanley Pool the sale of any product by natives or the purchase of products by a foreign trader is a crime.

[e] Payment to agents of the State of bonuses, varying with the amount of rubber and ivory obtained by them was strenuously denied by the Government until M. Vandervelde, in the Belgian Parliament, produced a circular of the governor-general establishing the practice, with letters from the secretary of state, in which the system was elaborated. The commission states that the law establishing the system of bonuses has been rescinded, but admits that it is charged that the system is universally prevalent under another name.

[b] The report recommends that the State shall "itself partially supply stations with dried fish and rice." It is thus made apparent that the entire military force, numbering some 30,000 men, besides the thousands of workmen and the European agents, have been quartered upon the people, the impost being laid upon the several localities concerned without regard to the strength or feebleness of the population.

[c] Corroboration of this statement is given by Mr. Glave, the companion of Stanley. "I saw the dead body of a carrier lying on the trail. He was nothing but skin and bone. These posts ought to give some care to porters. The heartless disregard for life is abominable. No wonder the State is hated." (Century Magazine, vol. 54, p. 713.)

There the collector passes a number of days in a miserable existence. He has to build himself an improvised shelter, which can not, obviously, replace his hut. He has not the food to which he is accustomed. He is deprived of his wife, exposed to the inclemencies of the weather, and the attacks of wild beasts. When once he has collected the rubber he must bring it to the State station or to that of the company, and only then can he return to his village where he can sojourn for barely more than two or three days, because the next demand is upon him.[a]

THE RULE OF FORCE.

The only legal means at the disposal of the State for compelling the native to work is by ordaining a labor tax.

As soon as the territory near to the villages was exhausted, and, consequently, the labor of the native become more painful, force was alone able to conquer the apathy of the native.

The disinclination of the negro for all work; his particular antipathy to gathering rubber, have made force a necessity.

The native only understands, only respects, force. He confounds it with justice. The State must be able to insure the triumph of law, and consequently force the native to work.

From what precedes, it may be concluded, we think, that everywhere on the Kongo, notwithstanding certain appearances to the contrary, the native only collects rubber under the influence of force, directly or indirectly exercised.

Very often, then, in order to secure workmen, force has been used and chiefs have been compelled to furnish workers as they have furnished soldiers.

Until recently this compulsion has been exerted in divers ways, such as carrying away of hostages, imprisonment of chiefs, stationing sentinels or overseers, fines, and armed expeditions.

Officials in charge of stations, arrogating to themselves a right which never belonged to them, have flogged rubber collectors who have not completely satisfied the requirements demanded of them. Some have even committed outrages, which is established by the judgments of the courts. Natives instructed to supervise the prisoners have been guilty of acts of violence toward them, often of the gravest character.

THE SENTRY SYSTEM.

By sentries are meant the black overseers, equipped with muzzle-loading guns, whose official duty it is to direct the work of the natives in the forest. The greater part of their time, however, seems to be spent in reminding the natives of their obligations, making sure that they go to the forest, and accompanying the gatherers when they return to the post.

Among these overseers some, who make up the personnel of the post and who almost always are strangers to the region, go to the villages during working hours and report to the whites those who are idling at home instead of being at work. Frequently, that more complete supervision may be had, they are delegated to a village to stay permanently.

This system of native supervisors has given rise to numerous criticisms, even on the part of State officials. The Protestant missionaries heard at Bolobo, Ikoko (Lake Mantumba), Lulonga, Bonginda, Ikau, Baringa, and Bongandanga, drew up formidable accusations against the acts of these intermediaries.

They brought before the commission a multitude of native witnesses who revealed a large number of crimes and excesses alleged to have been committed by the sentinels. According to the witnesses, these auxiliaries, especially those stationed in the villages, abuse the authority conferred upon them, convert themselves into despots, claiming the women and the food, not only for themselves but for the body of parasites and creatures without any calling which a love of rapine causes to become associated with them, and with whom they surround themselves as with a veritable bodyguard; they kill without pity all those who attempt to resist their exactions and whims. The commission was obviously unable in all cases to verify the exactitude of the allegations made before it, the more so as the facts were often several years old. However, the truth of the charges is borne out by a mass of evidence and official reports.

Of how many abuses the native sentinels have been guilty it would be impossible to say, even approximately. Several chiefs of Baringa brought us, according to the native custom, bundles of sticks, each of which was meant to show one of their subjects killed by the capitas.

The accusations against the sentries seem to be well founded. Moreover, the agents examined by the commission or present at its sittings did not even attempt to refute them. The least unfavorable opinion about the sentries was that of the manager of the Abir company, who said, "The sentry is an evil, but a necessary evil." We can not share this view. In our judgment the institution, as we have seen it at work in the Abir and Lulonga territories, should be suppressed.

There is no despot more cruel than a black given control of other blacks, when unrestrained by ties of race, family, or tradition.

FLOGGING WITH THE CHICOTTE.

The blacks employed by the State should accept, along with the other conditions of their contract, the disciplinary punishments which practically are the same as apply to the soldiers. The use of the chicotte is the most frequent form of punishment. The rules indicate fifty strokes as the maximum, and not more than twenty-five may be given an offender in any one day. In case of a wound being caused, or fainting, the strokes must cease immediately.[b]

Despite the provisions of the law as to the use of the chicotte, violations at times occur, either in its too frequent use for minor offenses or in exceeding the prescribed number of strokes.

MUTILATIONS.

It is principally during armed expeditions that the mutilations occurred to which certain witnesses, and particularly the Protestant missionaries, drew the attention of the commission.

It is more than probable that at the beginning of the occupation some white officers tolerated this barbarous custom (of cutting off hands) or at least did not do what they could to root it out. The result of this has been the mutilation of living natives whom the soldiers or sentries had believed to be dead.[a]

THE HOSTAGE SYSTEM.

When the rubber fell short, the agents arrested the chief of the village, or seized as hostages some of the inhabitants, often women, taken haphazard, * * * and kept them sometimes for several months.

We were, it is true, assured that the prisoners were not badly treated, that excessive labors were not imposed upon them. We have even been told that the lot of the women prisoners was not more painful than the existence of beasts of burden to which native custom subjects them. Nevertheless it is undeniable that imprisonment has often been aggravated by its accompanying circumstances.

We were informed that the houses of detention were often in a very bad state, that the prisoners were insufficiently fed, and that the death rate amongst them was high.[b]

ABUSE OF NATIVE CHIEFS.

The intermediary between the white man and the natives ought to be, as far as practicable, the village chief. * * * These, indeed, govern often in a paternal manner; in every case their rule is accepted by the populations. The natives hold them in much respect and affection, and it is very rarely indeed that they complain of them. We refer here only to the chiefs of villages or of shall groups of villages.

Chiefs have been utilized to get labor from the natives and imposts, but only by making them personally responsible for all shortages and for all the faults of their people, without recognizing their being possessed of any rights or authority over their people. Many have disappeared or lie hidden; others refuse all contact with the white man.

The imprisonment of the chiefs has completely destroyed their authority, the more so as they have been forced to the performance of servile tasks.

MILITARY EXPEDITIONS.

Frequently expeditions of this kind are simple reconnaissances, a peaceful tour, in the course of which the white officer simply leads his troops into the disobedient or delinquent village. He puts himself in touch with the chiefs, convincing the blacks, who care for nothing but force, of the power of the state and showing them the futility of allowing their obstinacy to bring them into conflict with the regular troops. Often this mode of procedure produces admirable results.

Occasionally it is deemed necessary to act more energetically. In such cases the written order given by his superior to the commander of the expedition was limited to the direction that he should "recall the natives to their duties." The most frequent result is that the natives flee at the approach of the expedition without attempting any resistance. The practice generally followed then consisted in occupying the deserted village or the neighboring plantations. Driven by hunger, the natives come back, either singly or in small groups. They arrest them and try to lay hold of the chiefs or headmen, who almost always yield, pledging themselves never again to fail in their obligations, and sometimes they are compelled to pay a fine besides. When it happens that the natives delay in reappearing, the customary plan is the sending of search parties to beat the bush and bring in all the natives they may find. The dangers of this system are readily seen. The armed black left alone feels the reviving of the old sanguinary instinct, which even the most rigid discipline can with difficulty hold in check. It is in connection with this form of service that the greater part of the murders have been committed for which the state soldiers are reproached.

A still more difficult operation is that of the expedition sent out to capture the fugitives.

The vague indefiniteness of the orders given, and sometimes the irresponsibility of those charged with their execution, have frequently resulted in unjustifiable murders. It often happens that the natives, to escape the payment of the tax, and especially the collection of rubber, migrate singly or in a body, and go to settle another district. Then a detachment of troops is sent after them who, sometimes by persuasion, sometimes after a fight, bring the fugitives back again.

In the course of such expeditions grave abuses have occurred; men, women, and children have been killed even at the very time they sought safety in flight. Others have been imprisoned. Women have been taken as hostages.

At times the military expedition assumes a character still more openly repressive. The order given to the commander of an expedition was generally worded as follows: "N——— is instructed to punish or chastise such and such a village."

Military action of this nature always goes beyond its purpose; the penalty being in flagrant disproportion to the offense. The guilty and the innocent are involved in the same punishment.

The consequences are often most sanguinary. And this is not surprising. If, in the course of delicate operations for the capture of hostages and intimidation of the natives, constant watchfulness could not always prevent the blood-thirsty instincts of the blacks from breaking close—when orders to punish are given by superior authority it is difficult to prevent the expedition from degenerating into massacres, accompanied by pillage and incendiarism.

In considering these facts one must bear in mind the deplorable con-

[a] An edict, limiting the labor requirement to forty hours per month, was issued November 18, 1903. It appears that the commission found the edict a dead letter. In another paragraph it is definitely stated that this act was neutralized at the outset by an action of the governor-general. (See p. 41.)

With this may be compared the following earlier edict: "I beg to bring to your notice that from January 1, 1899, it is necessary that 4,000 kilos of India rubber shall be furnished every month. To insure this result, I give you carte blanche." (Written instructions of Commandant Verstraten, district commissioner in the Kongo State, to his subordinates.)

Compare with this the declaration made by the Kongo government in July, 1900. (See p. 43.)

[b] Compare testimony of witnesses, pp. 49, 60, 62.

[a] The commission is disposed to believe that this practice of mutilation perpetuates an original native custom. This conclusion is at variance with views strongly expressed by those familiar with the country for many years. As to the main fact—that the severed hands are brought to the white agents as proof that orders given them have been executed—there appears to be no difference between the conclusions of the commission and the statements of missionaries and other independent witnesses.

[b] A missionary, who read the above, comments: "I shall never forget the impression left on my mind by the sight of one of these horrible houses of detention. It was at Mompona, in the A. B. I. R. territory. It was a small, low-roofed, circular building, with the only entrance to it through another building of the same type. The latter was occupied by a number of sentries with Albini rifles. Inside the other were herded a large number of women, girls, and boys—a mass of bones held together by black skin. I addressed myself to one poor skeleton of a woman lying in front of me where I stood. I asked her if she was sick. 'Two days ago,' she answered, 'I gave birth to a child, and, oh! white man, I am dying of hunger; I've had nothing to eat.' She was so weak that it was with difficulty she could articulate her words. And oh, the faces of those others! The horror of it! Outside the building there was a row of those skeleton women in the chain, followed by a sentry with an Albini and a chicotte, going back and forward from the garden to the river."

fusion still existing in the Upper Kongo between a state of war and a state of peace; between administration and repression; between those who may be regarded as enemies and those who have the right to be regarded as citizens of the State and treated in accordance with its laws. The commission was struck with the general tone of the reports relating to operations described above. Often, while admitting that the expedition had been sent out solely for shortage in taxation, and without making allusion to an attack or resistance on the part of the natives, which alone would justify the use of arms, the authors of these reports speak of "surprising villages," "energetic pursuit," "numerous enemies killed and wounded," "loot," "prisoners of war," "conditions of peace." Evidently these officers thought themselves at war—acted as though at war. This situation can not be prolonged. In the interests of the people and of the agents of the Government, the natives must not be open to find themselves treated from one day to another as enemies beyond the pale of the law. In any case it should be understood that the mere fact of a delay or shortage in the payment of taxes, if it gives rise to the use of force, should not justify expectations having the character of operations of war.

We hasten to say that military expeditions of this nature have become rare in most of the districts.[a]

DEPOPULATION OF COUNTRY.

Several missionaries heard by the commission pointed out the depopulation they said they had noticed in some regions known to them. It is evident that the commission could not arrive at a conclusion in this respect. Nevertheless, if we accept Stanley's figures, it is incontestable that a large part of the population must have disappeared, for, from Stanley Pool to Nouvelle Anvers, the banks of the river are almost deserted.

It often happens that the natives, in order to escape from taxes, and especially from the rubber tax, emigrate in twos or threes, or en masse, and settle in another region or even in another district.

It may easily be conceived that the riverine peoples, who were the first to feel the impositions levied by the white man, should have endeavored to escape from these impositions, and have taken refuge on French territory, or in other parts of the territory, where they assumed the impositions could not reach them. The population has in some cases been drained, so to speak, by the frequent levies of soldiers and workmen.

It is not too bold to assert that at the present time the great majority of the natives escape all imposts either because of the incomplete penetration of their territory (by the white man) or because of the exodus of the population whom former exigencies or the proceedings of certain agents have terrified.[b]

It must not be inferred from the foregoing that the population is everywhere decreasing or that the unions are always sterile. In the Lopori and the Maringa basins, and upon the banks of the Kongo River, from Mobeka to the falls, as well, we have noticed that there are frequent villages and a considerable number of young children.

THE STATE'S CONTRACT SYSTEM.

The law demands that each master or employer shall see to it that every contract for services is written out and presented to the proper authority for indorsement. Sanction can not be given until it is certain that the workman understands perfectly and accepts voluntarily the conditions of the engagement.

On the Upper Kongo, on the contrary, it may be said that almost nowhere are the intentions of the legislator—not to say the letter of the law—regarded.

The unfortunate effects of long engagements are peculiarly observable in the case of children. The district commissioners employ, especially for the work in the fields, children 7 and 8 years of age, who find themselves bound for many years by a contract which possibly they have voluntarily accepted, but whose full meaning certainly they were not in a position to know. Now, by the instruction of the director of justice, the officials can not refuse to sanction contracts if the children say they accept them.

THE WARDS OF THE STATE.

At Boma and at New Antwerp there have been established what are called "educational colonies." * * * Native children up to the age of 12 years are allowed to enter these colonies. They follow three courses or three years of study.

The State has incurred the reproach of "recruiting," under pretense of helping—but against the desire of the parties interested—young natives who are wanted to fill the ranks of its constabulary.

The State retains guardianship of the children until their twenty-fifth year. The duration of this tutelage is excessive. The decree fails to appreciate native conditions of life; 30 or 35 years is usually the limit of the length of life of the black; his sixteenth year is the beginning of adult age, and the result of this provision practically is to keep the wards of the State almost to the end of their life in the position of minors.

The dormitories at Boma are built of bamboo, which the cold night wind easily penetrates. Thus exposed the children develop lung trouble, to which the native offers but feeble resistance. On this account the death rate among the pupils of the State is quite large.

Feeling such a condition intolerable, the present director of the colony set about replacing these dormitories by solid brick buildings. But falling short of funds he had to use the young pupils themselves to do the work. Children of from 6 to 12 years of age had to dry and carry bricks. Their studies consequently were completely interrupted, and, without advantage to their intellectual or even practical development, the children were changed into laborers and kept at work which often exceeded their strength.

THE CONCESSIONARY SOCIETIES.[c]

By concession is meant the right given to commercial companies, for a considerable financial return, to gather exclusively for their own profit certain products of the territories of the State.

The concessionaire societies, by the fact that they are commercial, pursue lucre and not humanity and civilization.

It is apparent that such a company, upon which the State has imposed no restrictions, regards itself as absolute mistress in its domain, and it is not to be wondered at that the laws of the State have been openly violated.

In order to allow the companies to use this (coercion) the State, claiming a right to a certain amount of labor as an assessment, delegated its powers in part to the concessions. That is to say, it authorized these societies to require of the blacks labor in the rubber forests and also other forms of assessment, and to use coercion in obtaining them.

It is in the territories exploited by the concessionary companies that the most flagrant abuses have been committed.

These (concessionaire) societies have done nothing in the interest of the natives or to improve the regions they occupy.

It was barely denied that in the various posts of the A. B. I. R. which we visited, the imprisonment of women hostages, the subjection of the chiefs to servile labor, the humiliations meted out to them, the flogging of rubber collectors, the brutality of the black employees set over the prisoners, were the rule commonly followed.[b]

THE HIGHER COURTS COMMENDED.

The commission has received no complaint throughout its long investigation, and makes no criticism, as to the discharge of their important and delicate duties by the courts administered by trained magistrates.

A FUNDAMENTAL DEFECT OF THE JUDICIAL ADMINISTRATION.

The unsatisfactory character of this (system of) judicial centralization appears at once, for it involves extension of the jurisdiction of the Boma court through the whole country.

EXPERIENCE OF WITNESSES.

It is a sorrowful truth, which experience has demonstrated, so the magistrates tell us, that a large number of native witnesses compelled to go from the upper Kongo to Boma never see their villages again, but die during the voyage which is imposed upon them. The resistance of the natives to change of diet and climate is, so to speak, nil. The mere word "Boma" terrifies them. Thus, at the present moment it is very difficult, if not impossible, in many regions of the upper Kongo to induce the natives to testify before the tribunals. The inhabitant of the upper Kongo summoned as a witness flies to the forest. He must be treated as a criminal—hunted, chained sometimes; in any case subjected to force—to conduct him from his village to the court.

Even when all possible care is extended to them the ranks of these unfortunates are found to be very rapidly reduced by a homesick longing for the great equatorial forests. It is, therefore, not surprising that the deaths are still more numerous when, as sometimes happens during their long journey or in the localities in which they are to render their testimony, they are given unsuitable lodgings or are without sufficient food.[c]

Before the records, the witnesses, and the accused party can be brought to court many months, years even, pass. Meanwhile the white agents have returned to Europe, the negroes are no longer to be found, recollections are effaced, the facts are transformed into legends.

It is needless to call attention to the great injury wrought by this state of things to the prestige of law and the judicial administration.

It often happens that the injured native, rather than expose himself to the dangers and fatigues of a voyage to Boma, declines to complain.

[a] Unfortunately this impression is not supported by the latest testimony. See pp. 64–72.

[b] The commission, in general, is inclined to attribute the shocking decline in the population primarily to other causes than the wrongs suffered under the rule of Government. The effect of these wrongs in promoting depopulation is, however, clearly recognized. Missionaries of long residence in the country uniformly ascribe the swift decrease in population to administrative abuses.

For example, Mr. Gilchrist, referring to certain diseases to which the decline has been attributed, says:

"With regard to the causes of depopulation in the Lolanga district, where I have lived for fourteen years, I emphatically affirm that for one who has died of sleeping sickness there have been twenty deaths due to lung and intestinal diseases, and for one death due to smallpox there have been forty due to lung and intestinal troubles. Sleeping sickness has been in our district not more than seven years and never epidemic. Smallpox we have had twice in fourteen years, and comparatively few died of it. The lung and intestinal diseases are without doubt due, in a very large proportion of the cases, to exposure involved in collecting the taxes and in hiding from the soldiers in the forests, as well as the miserable huts the natives now live in, because they have neither time nor heart to build better."

[a] In these the King has as a rule not less than one-half interest.

[b] Endeavor is made to shield the State (the King) from responsibility for the excesses characterizing the rule of these societies. But these societies are commissioned by the State. The King is a controlling shareholder in the A. B. I. R. Company, for example, whose notorious maladministration figures so conspicuously in the report. His interests in this company a few years ago had a market value of $6,000,000. Documents have been published which show that State soldiers have been supplied regularly to these companies for enforcement of their exactions, and that great quantities of ammunition have been furnished them. The report shows also incidentally that commissioners of state have made visits to this section, and that official reports have been made to the central administration of all their transactions. It should be borne in mind also that even the horrors disclosed in the territory of the Abir trust do not surpass those revealed in the private domain of the King (Domaine Prive), as recorded in Mr. Scrivener's visit to this territory. (See Memorial to Congress, pp. 51, 52.)

[c] The death of so many witnesses during the journey to the lower river can hardly be ascribed solely to natural causes. This painful passage in the commission's report suggests apprehension that the fears of the natives must have operated in some cases to prevent the giving of testimony freely to the commission and that even this damaging report may unavoidably fall short of a full disclosure of the conditions the commission sought to investigate. Compare with this the following:

"The commission arrived on Tuesday, 15th November, 1904. I had a telegram on Sunday asking me to have witnesses in all readiness for the following day, but the exigencies of steamer life delayed them until Tuesday. I got as many witnesses as possible from the riverine towns; there was no time to attempt to get any from inland. If there had been time given, I am not sure whether I could have obtained any witnesses, for two reasons: (1) The inland people particularly are greatly afraid of giving evidence, lest worse should befall them, (2) and I had not food for them during their stay, for the food I was able to grow on my station was not sufficient for my men and boys, and the weekly kwanga tax was a great drain on the resources of the villagers. The inquiry was held on one of the steamers with all formality, and was as public as the limits of the steamer permitted. At the close of the inquiry the witnesses were paid some pieces of cloth to share among themselves.

"There was not, so far as I know, any direct attempt to suborn witnesses at Lukolela either before, for, or after the Commission's inquiry. The only thing we had to overcome was the fear engendered by the previous treatment witnesses have experienced in detention and removal to Leopoldville." (Rev. John Whitehead, Lukolela.)

Infractions remain ignored abuses multiply themselves, the discontent of the people increases, and even manifests itself suddenly by violence and revolts which the intervention of justice might have prevented.

POLITICAL PRISONERS.

The commissioners have observed in the prisons the presence—often in considerable numbers—of inmates who appear upon the lists as political prisoners. They are incarcerated under a simple order from the administrative authority. The cause of their arrest in general is in no way political. As a rule, they are natives who have neglected to meet their assessments. There are others who have given shelter to those who were delinquent or who were fleeing from justice.

A HELPLESS JUDICIARY.

It is strange to observe that while the law surrounds with serious safeguards individual liberty it should allow administrative action to be deprived, so to speak, of all check or control.

Judicial officers can not, according to government regulations, prosecute Europeans without the permission of the public prosecutor himself (who resides in Boma, the capital), and the public prosecutor can not accede to the request without the permission of the governor-general, who has supreme supervision over the machinery of the law.

The deputy of the court, when upon his circuit, has need of transportation, food supplies, and an escort. Now, in this respect he is entirely dependent upon the commissioner of the district, who can give or withhold the canoe, the soldiers or the police officers, the rations.

The commission found, indeed, that very often proceedings which had been started by the assistants of the public prosecutor against white men accused of having ill treated natives were not followed up owing to administrative decision. No motives being assigned for these decisions, it would be difficult to say to what extent they were justified. In any case, it is necessary that henceforth the responsibility of such measures should be left to the judicial authority.[a]

THE MISSIONARY.

Often also, in the regions where evangelical stations are established, the native, instead of going to the magistrate, his rightful protector, adopts the habit when he thinks he has a grievance against an agent or an executive officer to confide in the missionary. The latter listens to him, helps him according to his means, and makes himself the echo of all the complaints of a region. Hence the astounding influence which the missionaries possess in some parts of the territory. It exercises itself not only among the natives within the purview of their religious propaganda, but over all the villages whose troubles they have listened to. The missionary becomes, for the native of the region, the only representative of equity and justice.[b] He adds to the position resulting from his religious zeal the influence which in the interest of the state itself should be secured to the magistrate.

THE ACCUSING RECORD OF ADMINISTRATIVE INDIFFERENCE TO THE RIGHTS AND INTERESTS OF THE NATIVE PEOPLES.

A decree of the King-Sovereign of December 5, 1892 (not published in the Bulletin Officiel) directs the secretary of state "to do whatever he may deem necessary or practicable to insure the exploitation of the Domaine Prive."

For a long time (i. e., until November, 1903) the administration believed it could derive from this (decree) the right to make assessments, and also to delegate this privilege to companies, without any specification as to the nature or amount of the tax or even the degree of force that might be employed to secure it.

Under date of November 18, 1903, the King-Sovereign issued a decree fixing a uniform law of taxes for the entire State. So far as relates to the natives, the substance of this law is as follows: Every adult native who is in good health is subject to assessment, to consist of labor for the State. The maximum amount during any one month is forty hours of actual labor, and the work is to be paid for; this remuneration to be not less than the actual wages paid in the neighborhood.

In only a few of the districts had this law been put into effect up to the time of the coming of the commission.

A circular of the governor-general on February 29, 1904, announces to the district commissioners that the effect of enforcing the new law (of November, 1903) regarding assessments must be not simply to maintain the results of previous years, but to show a constant increase in the revenues.

[a] M. J. M. Jennings, who served for many years as a magistrate under the government of the Kongo State, spoke as follows in an address at Verviers a few weeks since:

"The Kongo judiciary is subservient to the governor-general, who at any moment can remove the judges and assistant public prosecutors; it is therefore powerless to suppress abuses. * * * The entire organization of the judicial department depends upon the administrative authorities. * * * A white man can not be summoned before the courts without an authorization from the governor-general. If a magistrate wishes to travel, he must apply to the district commissioner for food, canoes, and carriers. If he is not on good terms with that official, he will get bad and insufficient food, weak carriers, etc. Once a Liege magistrate, who was not on good terms with the executive official of the district, received for four months' journey a defective canoe, 2 pounds of flour, and a pot of butter. A magistrate will therefore exercise wise discretion before coming into conflict with an official. * * * A circular issued in 1904 states that when a magistrate is about to investigate abuses he must place all the facts before the executive administrator of the district. As three times out of four the guilty parties have merely carried out the orders of that very official, whom they know to be interested in the affair, the kind of task which the magistrate has to perform is to be imagined. His task can indeed be rendered impossible by the executive official. As the magistrate, furnished with the barest necessities, makes his way to the scene of the outrages he proposes investigating, the executive official will dispatch fleet messengers to the guilty party, and when the magistrate arrives at his journey's end he can find no witnesses, and inquiry becomes impossible. The magistrate, say the natives, is the small judge; the executive official the great judge."

[b] With this may be compared a paragraph (relating to another section of the vast state) found in the memorial of missionary societies to Congress, April, 1904:

"A white officer, unacquainted with the missionary whom he was addressing, after a cruel raid jokingly remarked that he had killed many people and secured a fine lot of curios. He said that while his soldiers were firing upon the villages the people ran wildly about crying, 'Sheppite, Sheppite.' It was their name for Rev. W. H. Sheppard, the associate of Mr. Morrison, whom they were beseeching to come to their aid."

Presented in a form so absolute these instructions were bound, in the majority of cases, to prevent the district commissioners from reducing impositions that were excessive by establishing new returns. And, indeed, many of them contented themselves with reenforcing the amount of the preceding taxes.

Does the Government intend by this that agents should merely seek to increase the number of enrolled contributors in proportion as under peaceful rule, the territory should become more accessible and the natives more amenable to taxation?

Article 54 (of the King's edict of November, 1903) states that in lieu of seizable property forced labor may be demanded. But how shall this be done? Shall one put a native in chains and inflict corporal punishment? How long may he be imprisoned and to what labor shall he be put? It is true that interpretative circulars have fixed one month as the maximum term of detention at hard labor, but it is evident the regulation is still left subject to the judgment of the agents.

No restraint was placed upon the agents as respects the manner of their conformity to the official standard.

The law of November 18, 1903, does not adequately decide in the question as to compulsory measures.

The law of the Free State has never defined what is to be understood by the term 'land occupied by the natives.'

The law requires payment of the local rate of wages as the minimum, but the circular of February 29, 1904, seems to indicate that it shall be the maximum.

The same lack of definiteness prevailed as regards the means of compulsion, when necessary to use this for nonpayment of taxes. The agents, like all the rest, followed no rule.

A law ought to indicate clearly what officials can declare the operations of war, decide conditions under which they may be undertaken, and the form they shall assume. Then one will know certainly when he is under the empire of the common law of the State and when he should bow to martial law.

It is true to say in general that everything regarding prescription and assessments as relates to the natives, until the last years, was left to the judgment of the agents.

We must say that the agents were not properly cautioned against these excesses.

In this great concession (the Abir) there was only one state agent, the commandant of the police force stationed at Basankusu. Although having legal duties and powers, he has never reported to the superior officers any illegal acts occurring in his district. His rôle has always been restricted to quelling native revolts or to bringing refractory villages back to work. We are justified in believing that he thought he had no other mission to fulfill for the instructions given him as read by us relate always to these matters.

(Official) infractions of law in the exercise of force have but rarely been brought to the courts.

LIMITATIONS OF THE COMMISSION'S FUNCTIONS.

The commission has not deemed the determining of personal responsibility to be the object of its inquiry.

We will not enter upon the question of the freedom of trade in its relation to the Berlin act. Such an inquiry would take us beyond the limits set for us.

A CHARACTERISTIC DECLARATION OF THE KONGO GOVERNMENT.

These ideas (embodied in the commission's report) are the same already expressed by the secretaires-general in their report to the King-Sovereign on the 15th of July, 1900. It is there stated that the plan followed by the Government "is to exploit the private domain solely by the voluntary contributions of the natives, the inducing motive to work being a just and adequate remuneration." [a]

DOCUMENT C.

Testimony at hearings of the commission.[b]

BWEMBA—STATION OF THE AMERICAN BAPTIST MISSIONARY UNION.

Mr. Billington made a statement dealing chiefly with forced labor, the tying up of men and women, etc., confirming the report sent by him to his mission headquarters in Boston, which were embodied in the memorial presented to Congress in April, 1904.

BOLOBO—STATION OF THE ENGLISH BAPTIST MISSIONARY SOCIETY.

Mr. Grenfell, who has been cited frequently as an upholder of the present régime, a contention based apparently upon statements made by him some years ago, before he became personally acquainted with the present state of affairs on the upper river, expressed to the commissioners his disappointment at the failure of the Kongo government to realize the promises with which it inaugurated its career. He declared he could no longer wear the decorations which he had received from the sovereign of the Kongo State. He stated that the evils from which the country was suffering were due to the haste of a few men to get rich, and the absence of anything like a serious attempt to properly police the country in the interests of the people. He instanced the virtual impossibility of a native obtaining justice owing to witnesses being compelled to travel long distances either to Leopoldville or Boma.

Mr. Scrivener dealt with the appalling condition of affairs he discovered in King Leopold's special reserve, the Domaine de la Couronne, during his 150-mile journey through that district in 1903,[c] and brought forward a number of native witnesses in proof of his statement. Lieutenant Massard, one of the officials implicated, from whom the press published last year a letter attacking Mr. Scrivener, was subsequently arrested.[d]

In the course of the examination the commissioners asked a rather youthful witness: "How is it you know the names of the men who were murdered?" "One of them was my own father," was the unexpected reply. "Men of stone," wrote Mr. Scrivener, "would be moved

[a] Compare with this, for example, the commission's findings as to systematic universal employment of force, p. 26.

[b] Selected from affidavits secured from those who appeared as witnesses before the commission.

[c] For Mr. Scrivener's report of the journey see Memorial of Missionary Societies to United States Senate in Senate Document No. 282, Fifty-eighth Congress, second session, pages 51, 52.

[d] A number of witnesses produced by Mr. Scrivener in connection with the trial of Lieutenant Massard were sent to Boma in December, 1904. On May 10, 1905, they had not yet returned to their homes and families. Witnesses sent to Boma from Baringa—1,000 miles away—in August, 1904, did not return until April, 1905, several of the party having died in the interval.

by the stories that are being unfolded as the commission probes into this awful history of rubber collection."

In the course of his testimony Mr. Scrivener said: "Not only are the natives often obliged to go several days' march into the forests to collect the rubber, but they are also compelled to all go to the government station, which is sometimes a great distance away, to each carry strips of rubber which, all told, sometimes weigh actually less than the sticks on which they are tied for carriage. The natives who collect rubber impositions should only be required to furnish them quarterly, and the transport should be limited to the number of men necessary to effect it instead of compelling all the men to undertake long and useless journeys."

"You mentioned that five natives were placed in single file and killed with a single shot by Lieutenant Massard, or by his orders. Among the witnesses you are able to produce, are there any who can testify to this incident?"

"No; I do not know of any. The fact itself I had from M. Dooms.[a] He received me very hospitably. During the whole of the meal we partook of together he spoke of nothing but the horrors he had heard of. Upon my return from the lake I saw M. Dooms again, and he gave me the account of the murders committed by Massard, or by his orders—shooting the natives as they brought in the rubber, or placing them one behind the other and driving one bullet through the lot.

"I expressed my surprise to M. Dooms that he should not have brought to the knowledge of the judicial authorities the facts with which he acquainted me. He replied that it was useless to do so now, and that he would expose them when he got back to Belgium. He also intimated to me his desire to leave the State service, because he did not like having to compel the natives to work beyond their strength. I had been waiting for the revelations of M. Dooms, and when I saw that their appearance was being delayed I gave publicity to the facts which had been revealed to me."

Seventeen native witnesses were then examined by the commission. Each testified to murders and massacres committed by white men and their agents.

LULANGA—STATION OF THE KONGO BALOLOLO MISSION.

Mr. Gilchrist's testimony: "They asked me to tell them all I knew about the La Lulanga. They prefaced my remarks by saying: 'Of course you know that this company is in the free-trade territory of the State?' They smiled when they said this, and so did I. I gave them instances that showed how free (!) it was. Just a few days before I had met a number of men of Bokotola, who, with their neighbors, were living in the forest, with all its discomforts and exposure in a wet season like the present, rather than stay in their own village and be harassed and abused by the company's agents. I informed them also of the sentry régime, with all its cruel accompaniments, and of what Mr. Bond and I had seen on our way from the Ikelemba, of their slave driving in those towns contiguous to their headquarters at Mompoko. I also told them what we had seen of the desolation in all the districts; of the butcheries wrought by the white men of the State and companies who had from time to time been stationed there. Everywhere the people were compelled to serve the companies in rubber, gum copal, or food. At one place two men arrived just as we were leaving with bodies covered with marks of the chicotte given by the trader of Bosci because their quantity was short. * * * Given favorable conditions, particularly freedom, there would soon be a large population in these interior towns."

Q. "What do you regard as causes of depopulation?"

A. "(1) Sleeping sickness. This has never appeared in epidemic form in our district; only in isolated cases.

"(2) Smallpox. Very few have died of this sickness.

"(3) Unsettled condition of the people. The older people never seem to have confidence to build their houses substantially. If they have any suspicion of the approach of a canoe or steamer with soldiers they flee.

"(4) Chest diseases, pneumonia, etc. The people flee to the islands, expose themselves to all kinds of weather, contract chills, which are followed by serious lung troubles, and die. For years we never saw a new house because of the drifting population. They have a great fear of soldiers.

"(5) Want of proper nourishment. I have witnessed the collecting of the State imposition, and after this was set aside the natives had nothing but leaves to eat.

"(6) Excessive taxes. The forty hours' work supposed to be given to the State is entirely a misrepresentation of the facts. The collecting of firewood alone occupies more than that time. That is sufficient without any other imposition.

"(7) Another thing that may account for the decreasing population is the constancy of the taxation. This sours the people. They feel they have no interests of their own."

BARINGA—STATION OF THE CONGO BALOLO MISSION.

[This territory is controlled by the A. B. I. R. Concessionaire Society.]

Mr. Harris gives the following account of the hearing at this station:

"Specific atrocities during 1904 were dealt with; then murders and outrages, including cannibalism; then the destruction of the Baringa towns and the partial famine that resulted. Next followed the irregularities during 1903. I drew attention to the administration of M. Forcie, whose régime was a terrible one, including the murder of Isekifasu, the principal chief of Bolima; the killing, cutting up, and eating of his wives, son, and children; the decorating of the chief houses wth the intestines, liver, and heart of some of the killed.

"Following this I came to M. Tagner's time, and stated that no village in the district had escaped murders under this man's régime. Next I spoke of irregularities common to all agents, the public floggings of practically any and every one; quoting, for instance, seeing with my own eyes six Ngombe men receive 100 strokes, each delivered simultaneously by two sentries. I referred to the imprisoning of men, women, and children, all herded together in one shed, with no arrangement for the demands of nature. I showed that very many, including even chiefs, had died either in prison or immediately on their release.

"I next spoke of the indiscriminate fines and the taxes imposed even on the food of the people and pointed out that the murders and cannibalism of the sentries were only an exaggeration of their general conduct. Then I spoke of the difficulties faced by the natives in reporting irregularities, as they have first to ask permission of the rubber agent. Here I quoted the sickening outrage on Lomako. (The details are unfit for printing.)

"I then pointed out that we firmly believe that but for us these irregularities would never have come to light. The relations that are at present necessary between the A. B. I. R. and the State render it highly improbable that the natives will ever report irregularities. The A. B. I. R. can and do impose on the missionaries all sorts of restrictions if we dare to speak a word about their irregularities. I quoted a few of the many instances which found their climax when Mrs. Harris and I almost lost our lives for daring to oppose the massacres by Van Caelcken. I stated that we could not disconnect the attitude of the State in refusing us fresh sites for missionary work with our action in condemning the administration. We are not allowed to extend the mission, and, further, we are forbidden to trade even for food, though all this is in clear violation of the Berlin act. So far as we are aware, until 1904 no single sentry had ever been punished by the State for the many murders committed in this district.

"Sixteen Esanga witnesses were questioned one by one. They gave clearly the details of how father, mother, brother, sister, son, or daughter were killed in cold blood for rubber. Then followed the chief of all Bolima, who succeeded Isekifasu (murdered by the A. B. I. R.). He stood boldly [a] before all, pointed to his twenty witnesses and placed on the table 110 twigs, each twig representing a life for rubber. 'These are chiefs' twigs,' he said, 'these are men's, these shorter are women's, these smaller still are children's.' He said that the white man fought him, and when the fight was over handed him his corpses, and said: 'Now, you will bring rubber, won't you?' To this he replied 'Yes.' The corpses were cut up and eaten by M. Forcie's fighters. He told how he had been chicotted and imprisoned, and put to the most menial labor by the agent, of numbers of stolen and ravished wives, and of the many anklets, spears, shields, etc., that he has been forced to give the sentries.

"Bonkoko told how he accompanied the A. B. I. R. sentries when they went to murder Isekifasu and his wives and little ones; of finding them peacefully sitting at their evening meal; of the killing as many as they could, also the cutting up and eating of the bodies of Isekifasu's son and his father's wives; of how they dashed the baby's brains out, cut the body in half, and impaled the halves.

"Again, he told how, on their return, M. Forcie had the sentries chicotted because they had not killed enough of the Bolima people.

"Longoi, of Lotoko, placed eighteen twigs on the table, representing eighteen men, women, and children murdered for rubber. Lomboto shows his mutilated wrist and useless hand maimed by the sentry. Isekansu shows the stump of a forearm, telling the same pitiful story. Every witness told of floggings, rape, mutilations, murders, imprisonments, and of illegal fines and irregular taxes, etc. The commission endeavors to get through this slough of iniquity and river of blood, but finding it hopeless, asked how much longer I could go on. I told them I could go on until they were satisfied that hundreds of murders had been committed by the A. B. I. R. in this district alone. I stated that witnesses only awaited my signal to appear by the thousand.

"I further pointed out that we have considered about 200 murders only from the villages of Bolima, Esanga, Ekerongo, Lotoko; that by far the greater majority still remain. Every one saw the hopelessness of trying to investigate things fully. To do so, the commission would have to stay here for months."

Mr. Stannard's testimony: "Not more than a tithe of the witnesses were examined, but that was because the commissioners considered the charges against the A. B. I. R. fully proved. The director of the A. B. I. R. had every opportunity of disproving the evidence, but the utmost he could do was to attempt to explain away things and plead ignorance. I said I wished to confirm all Mr. Harris's evidence, except the things that he had actually seen and I had not. I pointed out that we had together drawn up the evidence to be laid before the commission, so as to avoid repetition.

"Whilst I was stationed at Bongandanga they always had women prisoners, this being part of the ordinary routine of the A. B. I. R.

"Women were imprisoned because the men were short in their supplies. If a certain village or certain villages were short, a number of the women from those places would be seized and put into prison until the men made up their deficiencies.

"I spoke of the method of bringing in rubber workers by sentries. Every fortnight these people were brought in from their villages, distant about 30 to 40 miles. Before reaching the A. B. I. R. they had to pass through the Mission Station. In the front came a line of five or six sentries abreast, marching military fashion, with rifles or guns across their shoulders. Following these came a number of prisoners tied neck by neck. After these came the men and boys carrying their rubber, with sentries amongst them at different intervals, and then a number of sentries at the rear hurrying up the stragglers.

"I have seen rubber workers being carried away by their friends from the A. B. I. R. station after having been severely chicotted.

"When the police officer comes it is usually at the request of the A. B. I. R., and he is told only their side of this story. He hears nothing about the difficulty the people have in getting rubber and the terrible treatment they have received. The people think he has come to fight them and they either assume a hostile attitude or run away.

"The representative of the Kongo Government in the territory distinctly resented our action in reporting outrages connected with the procuring of rubber. The restrictions imposed upon us in the matter of foodstuffs, etc., are the direct result of this.

"With reference to taxation, I submitted:

"(1) It is wrong that all the taxes of a large territory should go to the shareholders of a commercial company.

"(2) Whilst it is right that natives should work, it should be shown them that there is some benefit from working.

"(3) The natives should work principally for their own good, whilst at the same time paying their taxes.

"The native evidence was overwhelming. The witnesses were so numerous that the commissioners felt it would be a tremendous task to hear them all, and they did not think it necessary, as they considered the charges more than proved. The director of the A. B. I. R. was asked what he had to say to these things, and he had to confess that he could not dispute the evidence.

"The witnesses from Esanga told how on one occasion, because forty-nine instead of fifty baskets of rubber were brought in, some of their people were imprisoned and sentries were sent to punish the people. One poor woman was trying to catch fish in a stream near by her village when she was surprised and shot by rubber sentries.

"Another witness told how he found the corpses of his mother, uncle, and sister killed by the sentries. All had harrowing stories to tell of the brutal murder of near relatives. Some had been shot before their

[a] M. Dooms was the successor of Lieutenant Massard. He told Mr. Scrivener he would denounce Massard's cruelties when he reached home. It was announced later that he had been killed by a hippopotamus.

[a] This word becomes pathetic as one thinks of what these natives had suffered from the pitiless power of their oppressors and of what they might suffer after the commission had gone.

eyes; others had fled to the bush to save themselves, and when they returned had found the dead bodies of their relatives lying about.

"Defenseless women and children were shot down indiscriminately in order to strike terror and fear into the hearts of these unhappy people so as to force them to bring rubber. This has been the normal condition of these people's lives for years.

"Whilst the men were in the forest trying to get rubber their wives were outraged, ill treated, and stolen from them by the sentries. Usually the sentries would attack a village either at night or very early in the morning and in cold blood shoot down the defenseless people, who offered no resistance. The history of the A. B. I. R. in these parts is one of oppression, blood, and iniquity.

"Lontula gave a horrible story of massacre, mutilation, and cannibalism, crimes committed by those who were acting under the instructions and with the knowledge of white men. At one time, after they had killed a number of people, the cannibalistic fighters attached to the A. B. I. R. force were rationed on the meat thus supplied.

"Inunga, of Ekorongo, came with his bundle of twigs representing thirty-three people killed by sentries, and when asked why they had been killed replied 'because of rubber.' He mentioned four white men who had sent their sentries to do this dreadful work.

"Boali, a woman of Ekorongo, appeared before the commissioners, and her maimed body itself was a protest against this iniquitous rubber system. Because she wanted to remain faithful to her husband, who was away collecting rubber, she was shot in the abdomen, receiving an awful wound. She fell down insensible, and the wretches were not yet satisfied, for they then hacked off her foot to get the anklet she was wearing.

"Lonboto, her husband, told how they flogged him because he was angry on seeing his wife's mutilated body.

"Bomolo, chief of Bolumboloko,[a] said: 'There is no rubber in the forest. They search for it, but it is now finished. When they brought what rubber they could get to the station, they were flogged with chicotte, being laid on the ground.'"

BONGANDANGA—STATION OF KONGO BALOLO MISSION.

Mr. Ruskin's testimony: "I have been ten years upon this station, and during this time I have seen the following things:

"Expeditions of sentries armed with Albini rifles, followed by town people with spears and shields, they in turn followed by women with baskets for loot, etc. M. Peterson has led such expeditions, generally on Sundays.

"Large numbers of women in prison, compelled to work in the sun, some with children at the breast.

"In 1895 I visited the river Bolombo before the A. B. I. R. commenced operations and found large flourishing towns, people happy, and plenty of food, fowls, goats, etc. In 1901 the change was most noticeable. The natives were terrorized by sentries and had to live in the forest. In Bosinga and Eala, which were flourishing towns, I could not see a hut.

"In 1899 I saw poles at the A. B. I. R. factory to which four men had been tied, stripped, with heads shaven, for a day and night without water or food. In the morning their eyes were protruding, their features all swollen, and they cried for some one to bring a gun and put them out of their misery."

The commissioners handed to Mr. Ruskin Mr. E. D. Morel's book, "King Leopold's Rule in Africa," and asked him if the things reported there were those he was about to report. If so, it would save fatigue and time if he would confirm them wholesale. Mr. Ruskin read them and, with the exception of one or two typographical errors, confirmed the whole.

"With regard to the system, I have no hesitation in saying that it is iniquitous in the extreme, and if continued will end in the total depopulation of the country. The administration of the system varies with the agent, but the system itself remains the same."

Mr. Gamman's testimony: "After taking the oath I said that as soon as the approach of the commission was known the sentries ran into the village and compelled the men to return at once to their own towns. As soon as I knew that the commission had arrived, I sent to the town to procure witnesses, but they had all gone.

"The commission asked me if I could account for these things. I replied that it seemed to me that some persons were very anxious to get rid of all who could give evidence.

"The president asked what I thought was the reason of the deaths of those chiefs. I replied, lengthened and repeated confinement in prison, hard work, improper food, and, not least, broken heart.

"I cited the murder by sentries in the time of the agent, M. Baelde. In Boseki two sentries named Bolungia and Iseowangala tied up a man named Iseokoko to a tree and demanded from him 1,000 rods.[b] He was only able to supply 300 and one or two dogs. This, they said, was not sufficient. Because the rest was not forthcoming, Bolungia shot him dead. I gave the names of witnesses for this, but they were not called. I also informed the commission that Bolungia (one of the murderers) is at the present moment a sentry in the employ of the A. B. I. R. here.

"The president then asked me if I had any general statement to make. I thought the rubber tax was exorbitant. The rubber in the immediate districts was finished; nearly all the villagers had to go two days in the forest for their rubber, work five days there, and then return and bring the rubber to the factory. It was especially hard for those villages far from the factory. We understood that the tax was to be forty hours' work a month. The rubber tax for Nsungamboya was thireen days in every fifteen days. Thus the people only had four days a month at home. I knew of no village where it took them less than ten days out of the fifteen to satisfy the demands of the A. B. I. R.

"I stated that the greatest iniquity was the power put into the hands of untrained, armed sentries, who so frequently and atrociously abused their positions, and were never punished for even the most brutal crimes. As far as I know, not one sentry has ever been severely punished for their abuses of power, their seizing of wives and property, or even murder—cases which have been proved without any shade of doubt. In reply to a question by the President, I said I did not think it was possible to get in the same amount of rubber without the sentries, because it was excessive, and all power had been taken out of the hands of the chiefs.

"Continuing my evidence next day, I said that I thought I could prove that gross abuses of their position were still perpetrated by the sentries, and also that the sentries were not properly superintended by the A. B. I. R. agents. The women to whom I had referred the day before were tied up by Mbongedza purely for purposes of extortion—it could not have been for rubber—as the husbands were at the time carrying their rubber to Bongandanga. The names of the women were Nsala, Bokali, Ekokula, Botono. This was not even denied by the sentry, and although M. Delvin promised to revoke him, he was only detained one night, and he is at the present moment a sentry at Nsungamboyo.

"The number of women seized by the sentries from Nsungamboyo was almost innumerable. A young man gets the gun, is sentry at Nsungamboyo, and in a few months has quite a number of wives.

"Lokungu, my witness, was then called. He had a piece of string with forty-two knots, each knot indicating a person killed at Nsungamboyo. He also had a packet of fifty leaves, each leaf representing women whom he knew had been seized by the sentries; he could give the names of all, and there were many more whose names he could not remember.

"He had seen that day, in walking from our station to the steamer, four of these women in the house of a sentry; one was his own daughter. The names of these four women were Iysovu, Benteke, Bofola, and Boyuka. If a man is sick and can not possibly go for his rubber, his friends must give a substantial present to the sentry. If a male native down on the list as a rubber collector dies, his friends must do something handsome to get the name taken off the books."

IKAU—STATION OF KONGO BALOLO MISSION.

Mr. Lower's testimony: It was proved that a number of natives anxious to give evidence had been threatened, cruelly treated, and in some cases prevented from going to Ikau by native sentries.

Mr. Lower produced a long list of murders committed in the concession, bringing forward many native witnesses to prove the facts.

The names of sixty men, women, and children murdered by Government sentries were given, with dates and remarks upon each case.

A few typical instances are here given:

"Sentry demanded deceased's wife. He refused, was bound first and then tied to a post and shot. Corpse untied by Iseofoso, witness."

"Sent to secret prison. Beaten by sentries. Set free. Died one day later. The sentry Iseowaka demanded 1,000 rods before permitting relatives to have the body."

"Rubber deficient. Imprisoned. Sentries dug a hole and laid him face downward in it. They then jumped on him, ramming him with stock of gun until dead. They took the body to the white agent, who, without inquiring the cause of death, told them to take him away and bury him."[a]

"Bonkongya requested deceased to let him have his daughter. On refusal he sent two sentries, who killed him by hanging."

"The A. B. I. R. agent 'Lowoso' sent the sentries. The child Impogni had right hand and left foot and part of foreleg cut off for purpose of getting the ornaments which were on them."

"A woman was shot and her children were hacked with knives."

Testimony of Mr. Charles Padfield: "On 4th December, 1904, when the commission of inquiry was expected, the white agents at Boyeka endeavored to bribe the villagers to silence in the matter of atrocities committed upon the people. The villagers, knowing that the commission of inquiry was coming, refused to receive the blankets offered them.

"About September of 1904 the white agents at Boyeka sent a sentry to the village of Nkoli to get the rubber. Some of the able-bodied men of the town having died, several villagers went to the white agent, begging that the number of baskets of rubber demanded should be reduced from forty to thirty. This request the white agent refused, and sent the sentry Ekolelo to punish the people if the rubber was not complete. The people were unable to produce the full amount, and thereupon the sentry shot the chief, Bombambo, the charge entering the abdomen on the right side and passing out at the back.

"The son of the murdered chief, accompanied by another man, named Bosolo, took the corpse to the white agent (known to the natives as 'Ekotolongo') and complained. But he told them that the chief had been shot because the rubber was not complete, and ordered them to take the corpse back to their town. He called his dog and set it on them, the dog biting the son on the leg as he carried the corpse of his father.

"The town of Inganda had to produce twenty baskets of rubber per fortnight. On one occasion, in 1904, the people had only collected sixteen baskets. The sentry Maboke was sent for the rubber, and finding it short beat a villager so severely with his gun that he died. Lofali and other men carried the corpse to the white man, who said that the man had been killed because the rubber was short.

"Some time later the people of this village were five baskets of rubber short, and the sentry Mambuso caught a villager and took him to the white agent at Boyeka. The white agent thereupon ordered the villager to be chicotted in his presence. The victim of this brutality was then taken to Bassankusu (headquarters of the A. B. I R. Society), where he was kept five days, after which he was brought back again to Boyeka, again chicotted by the white agent's orders, and sent back to his home. His body was so fearfully lacerated that he died two days later. The villagers, led by the headman, Lofali, took the corpse to the white agent, who told a sentry to thrash Lofali with the chicotte, and to-day he bears the scars so received.

"The town of Bokenyola has to send ten women on Sunday and forty on other days to work at the factory. On one occasion, when the forty women had been working all day, the white agent, Lokoka, had the women in the evening all lined up, ordered them to strip themselves naked, and then * * *. (What follows is unfit for printing.)

"Early in 1904 the sentries of the La Lulanga Company were sent to Bolongo for the rubber due from that village. The people had gone to the forest, but had not been able to procure the full quantity. As a punishment three villagers were murdered and another wounded. The villagers brought the dead body of one of the murdered persons and also the wounded man to M. Speller, the director of that society. He accused them of lying, and told them to return to the town.

"About the middle of 1903 the people of the village of Bomengi had started to carry the rubber overland to the factory, when a sentry, Engonda, arrived in a canoe. The people told him that the rubber was on its way, but he refused to believe it, and shot the chief. The white agent, Lokoka, declined to take any action.

"On another occasion the white agent, Lokoka, sent messages to the village of Bosokoli to inform the people that they would have to supply double the amount of rubber, adding that if they did not he would punish them. The people could not comply with the demand, and the white agent sent his sentries. They killed two men. The chief com-

[a] Bolumboloko was again raided by A. B. I. R. soldiers in April, 1905, some months after the visit of the commission.

[b] The native currency.

[a] It should be borne in mind that these soldiers or sentries are themselves flogged and degraded if the rubber is not forthcoming from the villages under their control.

plained to the white agent, who said, 'No palaver,' and told the sentries to throw the bodies into the river.

"Some time afterwards the white agent, hearing that the chief was angry, instructed him to bring the rubber in person. When the chief came he was chicotted by order of the white agent and imprisoned for about four months, during which time he was made to work every day and frequently thrashed.

"In 1903, when the sentry attached to the village of Lobola had gone to the society's factory with the rubber imposition, the village was looted by other sentries. The people having remonstrated, the sentries shot four men, including the village chief; and, pursuing a boy, slashed him across the body and cut off his right hand. Two villagers went to complain to the white agent, 'Bomba,' taking with them the corpse of one of the murdered persons. The white agent told them to go away and put the body into the water.

"About the same time the people of this village, when taking their rubber to the white agent, Lokoka, were told by him to bring in addition ten fowls, sending a sentry to see the order carried out. The people objecting, the sentry shot a villager named Maloko. A relative took the corpse to the white agent, but he simply told him to go away.

"In the spring of 1903, while the sentry attached to the village of Busanbongo had gone to Mampoke with the rubber imposition, two other sentries came and looted the village of most of its possessions. Because the people objected one sentry shot the man Mokembe, while the other sentry shot the man Biacia in the right arm, which to-day he is unable to use.

"The women at Mampoko had to tread the clay used for brick-making, and on one occasion the sentries stripped the women, and in the presence of the white man in charge of the work * * *. The women went to M. Speller, the director, and he told them to go away.

"In 1904 the people of the village of Bokutolo received as pay for their rubber three flat beads. They asked for more pay, as they had not received anything for the last eight times they had brought rubber. For answers the white agents seized the man Mboyo and one holding him another beat him until he died.

"On the third occasion of their bringing in the rubber after the above murder, the white agents gave the people a small mirror. The people asked for money. As answer the white agents seized the man Bokectu and beat him with the chicotte so severely that he died. The eye-witnesses of these murders, and also of the widows of the men killed, were examined by the commission of inquiry."

MONSEMBE—STATION OF ENGLISH BAPTIST MISSIONARY SOCIETY.

Testimony of Mr. Weeks: "The commission of inquiry arrived here on the evening of 6th January, 1905, and at 8.30 a. m. the following day the court assembled and I was summoned to appear before it. The court-house was the deck of a steamer—an ample space between two cabins. The president attended in a scarlet gown with lace bands, Baron Nisco in a black gown with white bands, and the Swiss member in a dress suit. Soldiers were on either side armed with guns, and with bayonets fixed. The court was dignified and impressive.

"After taking the usual oath I was called upon to make my statement. I drew the attention of the commission to the fact that my attitude toward the State was not the outcome of the present agitation in England, because I had written as far back as the 6th November, 1897, a strong appeal to the commissaire of the district of Bangala for a reduction of the taxes, as the people were in a state of semi-starvation, and the population was decreasing rapidly. I told them that three officers of the State came and investigated my complaints, found my charges true, but nothing was done to relieve the natives.[a] They accepted as proved my charges in re exorbitant taxation.

"The next point considered was that of depopulation. In 1890 there were over 7,000 people within a certain area, comprising the towns of Bongwele, Moluka, Mantele, Bonjoko, Mokobo, Nkunya I, Nkunya II, Bombala, Monsembe, the Creek towns, Upper and Lower Bombelinga; that the Creek, which had formerly 1,500 persons, had now only 67, and that out of the 7,000 people in the above towns we last counted 574, and that the State had just taken a census and found only 551, and that in the other parts of the district there is a like decrease. They accepted that as proved.

"I then referred to the killing of twenty-two men, women, and children by M. Mazy (Mabata) in the Bokongo section. They said that M. le Juge Grenade had fully confirmed my accusation and had supplied more details than I had given. Charge proved.

"Then came the question of depopulation through sleep sickness. I said that on my arrival at San Salvador in 1882 I found the people suffering from sleep sickness, that the people were not taxed, that they lived under normal conditions, that the birth rate kept pace with the death rate, and that the town had since increased. The first case of sleep sickness in Monsembe was brought to our knowledge in 1892—two years after our settling in the district—since which time the deaths have increased through semistarvation and worry. The eternal fortnightly tax depressed the people and made them an easy prey to disease of all kinds.

"We then reached the labor question.

"They asked if it was not necessary to force the natives to work.

"I said, 'No. Look at all the mission stations, steamers, etc., all built and maintained without the use of forced labor.'

"It had never occurred to them that all our work was done without the employment of forced labor. I called their attention to the industry of some young men within 50 yards of their steamers, who were making chairs and tables. As they were under our protection and knew they would enjoy the fruits of their labor they worked hard. Given a guaranty, I said, that the natives would reap the fruits of their toil and not be cheated out of them, they would work without force. The State could buy its native produce by giving a fair market price, dealing honestly with the natives and winning their confidence.

"I stated my conviction that State trading was the cause of most of the abuses, and that there would be no real reform until the State gave up trading; that the time and energy of the commission would be wasted unless the State abandons trading. State trading was the curse of the country and the ruin of the people. The promotion and perquisites of officials depended largely on the amount of rubber or other produce they collected from their districts. They could not administer the country while taken up with trading.

"In conclusion I said that we came here to teach and preach, and instruct in various ways the natives among whom we live. We are not political agents, and we care not a jot who rules the country, so long as we have freedom to do our religious work and the natives are treated fairly. But when we see them being crushed out of existence, what are we to do? Appeal to the Kongo executive? We have done that, and wasted our time, paper, and stamps. What are we to do? Sit quietly, because we are supposed to be in a foreign country? Why, the very stones would cry shame upon us if we were to be silent about the grievances of these people."

A SUPPLEMENTARY LETTER.

On January 5, after the commission had left Baringa, Mr. Harris wrote the president of that body:

"While you were at Baringa a chief from Boendo escaped from the sentries guarding his village and came through the forest in order to lay his case before you; but he experienced such difficulties that he arrived too late to see you, for he found, to his keen disappointment, that you had gone down river. He had brought with him several eyewitnesses of barbarities, also 182 long twigs and 76 smaller ones, which the chiefs of his village had sent you, in order to prove that the A. B. I. R. had murdered 182 men and women and 76 children in their village during the last few years. These people were killed by hanging, spearing, cutting the throat, but mostly with the rifle. Some of the women were tortured to death by forcing a pointed stake through the vagina into the womb. I knew of other such instances, but in order to test him I asked him for an example. 'They killed my daughter Nsinga in this manner; I found the stake in her.' He told me of many other instances of terrible brutality, torture, and murder. He further said that since he had left his town a messenger had followed him to say that the A. B. I. R. sentry, Lofela, had clubbed his wife to death with his gun."

Further details of tortures inflicted upon the people are too horrible for reproduction. Mr. Harris gave in this letter a long list of murdered people—men, women, and children. He concludes:

"This chief said that the reason why he was unable to supply more names of children was because they were too small, many of them being quite babies, who were killed with their mothers. I hope the commission will be able to find a place in its dossier for this letter."

AS TO PRESENT CONDITIONS.

On January 17 Mr. Harris wrote as follows to the vice-governor-general:

KONGO BALOLO MISSION, BARINGA,
January 17, 1905.

To his excellency the VICE-GOVERNOR-GENERAL:

SIR: I have the honor to acknowledge your excellency's wish, expressed to me through His Britannic Majesty's acting consul, that we will not delay in informing the authorities of irregularities that we think ought to be known. During the last few months we have done this, but there is yet very much to be told; more than I can ever hope to deal with. I am sending this communication through Commissaire-General B———, in order that he may be fully acquainted with the facts.

I have just returned from a journey inland to the village of Nsongo-Mboyo, the incidents of which have so impressed me that I feel it wise to give you an account.

In the employ of the mission is a man who, as a youth, was captured in a native quarrel from this village, and, being anxious to know if his relatives were still alive, he has constantly urged this journey upon us.

Madame Harris and I left Baringa on January 8, arriving at Nsongo-Mboyo on January 11. I had heard much of the plenty and beauty of this village from my man, but arriving there we found nothing but desolation; there was the place where once the village had been; that was all. However, by sending forward scouts, I got to know where the people were, and after pushing on for another three-quarters of an hour, preceded by men shouting that we had not come to fight, I found the old chief and some of his young men; a little later the mother of our employee emerged from the forest. Then, your excellency, a sight appeared which moved us deeply; the employee, though a grown man, broke down and wept; naturally, one would have expected him to show pleasure at seeing his mother. I asked him why he cried. "Oh, Bondele,[a] how can I be happy? My relatives have all been murdered for rubber; my friends have not a house to live in, or food to eat; my sister, with her right hand and left foot off testifies to the brutality of the sentries." I had ample proof of this; there was not a house for us to sit in; the people were living in holes in the earth, hollow trunks of trees, and in little grass caves; many lived in the open, with a few leaves for a covering. The chimpanzee is better housed and fed than these people, and in greater safety, too. The old chief said: "White man, I am full of shame; I can not give you a fowl to eat yourself, or manioca for your men; I am ruined." The only present the mother of my employee could give her son was a few leaves for pottage. They had ceased working rubber, because they said they could not find it; and even when they took what little they could, the white men only flogged them; they were therefore waiting now, expecting that every day the white man would come again and kill them. The abject misery and utter abandon is positively indescribable; though I know of many villages that have suffered, not one that I know of has ever presented such a picture of hopelessness and despair.

A few months ago M. Pilaet took his sentries there and between them killed:

Men—Isekalokuji, Bofofi, Itoko, Ilumbe.
Women—Imengi, Bofua, Bokangu, Nkawa.
Children—Mongu, Iyoki, Bomambu.

The young woman Imengi was tied to a forked tree, chopped in halves with a matchet, beginning at the left shoulder, chopping down through the chest and abdomen and out at the side. It was in this way the sentries punished the woman's husband.

Bolumba, another woman, wishing to remain faithful to her husband, had a pointed stake forced into her womb, and as this did not kill her she was shot.

I found that, as in other towns, enforced public incest formed amusement for the sentries. (The names of victims and relationships are given.)

After spending some time with the people and hearing their miserable story, also seeing much proof with my own eyes, I made my departure, but before I came away one young chief stepped out and said, "Tell them (the rubber agents) we can not and therefore will not find rubber; we are willing to spend our strength at any work possible, but rubber is finished. Our mothers, fathers, sisters, brothers, have been murdered in scores for rubber; every article of any value has been

[a] Mr. Weeks's long series of disclosures to the Government have had the effect of proving once again how hopeless it is to expect that on the Kongo adequate punishment, or even punishment at all, will follow crime where white men are concerned, especially Government officials. In one prominent case in which shocking murders were committed by a force under Lieutenant Mazy, that officer was allowed to return to Belgium after the charges made by Mr. Weeks were in the hands of the authorities at Boma.

[a] Mr. Harris's native name.

stolen from us, spears, knives, brasslets, fowls, dogs, etc., and we are now ruined; if we must either be massacred or bring rubber, let them finish us right off, then we suppose they will be satisfied."

It was touching to see the old chief as he wrung my hand again and again. "Oh, Inglesia, don't stay away long; if you do, they will come; I am sure they will come, and then these enfeebled legs will not support me; I can not run away. I am near my end; try and see to it that they let me die in peace; don't stay away."

I was so moved, your excellency, at these people's story that I took the liberty of promising them, in the name of the Kongo Free State, that you will only kill them in future for crimes.

The following are the names of some of the people murdered by the A. B. I. R. for rubber: (Here follow the names of thirty-eight men, twenty-six women, and sixteen children, and of the sentries by whom the murders were committed.)

I have the honor to be, your excellency's obedient servant,

JOHN H. HARRIS.

On April 7 Mr. Stannard wrote as follows:

"The devil's work is in full swing again. The A. B. I. R. are determined to get their rubber from this district, no matter what it may cost in the shedding of blood and human suffering. The people have been told that very soon the sentries are coming again to kill more, and that if they do not bring in rubber they will soon be 'finished off.' Of course we shall report this to the State, but what is the use? Its action in regard to Van Caelcken's trial does not give much encouragement or hope that any real justice will be done."

August 19 Mr. Stannard writes again:

"They have also taken away the chief of Bolumboloko, who was tied by the neck, and Lontulu, the senior chief of Bolima. These are two of the most respected and influential men in the district, and their arrest and deportation are shameful. It is significant that they were two of the principal witnesses before the commission of inquiry. * * * Every important witness against the State is the object of the State's disfavor, and as soon as there is the slightest opportunity they are made to suffer.

"The fact is that for a man to speak of these atrocities, which should bring shame to any white man's face, is to make himself a marked man by the State with all that it involves.

"When the commissioners were here, they told us and the directors of the A. B. I. R. that the A. B. I. R. had absolutely no right to force the people to bring them rubber, and that it was illegal for them to do so, and yet now it is being done by the State itself, whose officers are working openly hand in hand with the A. B. I. R. in this abominable traffic. The commissioners said that some reforms were imperative and must be introduced immediately. But the reforms are as bad, if not worse, than the former condition. The commissioners said that extra judges must come into the district. The judicial officer is practically a nobody—he tells us that he can not do anything; that there are only certain things which come within his province for investigation, and that he has no power to act. The real judge, we are told, who has been granted special power, is Commandant H———, the man who, whilst police officer, was the tool of the A. B. I. R., and who is now helping them with his increased authority to do what the commission of inquiry pronounced an illegal thing, viz, force rubber from the natives at the point of the rifle. This is the kind of judge provided on the Kongo. In this country the judge joins hands with the lawbreakers, the plunderer, and the oppressor, and then sits in judgment on his victims. When these are the views and this the attitude of the executive and judicial authorities, where is there any room for hope?

* * * * * * *

"Lately there arrived in the Kongo a M. Rice,[a] who is said to be a very high official and large shareholder of the A. B. I. R., and to whom the greatest deference is shown by State officers. He says the State can not take away the charter of the A. B. I. R., and he has also obtained a promise from the commandant of the district to force the people to work rubber.

"On the 21st July he reached Baringa on an A. B. I. R. steamer, accompanied by Mr. Delvaux, the director of the A. B. I. R., and went up the river, their steamer being immediately preceded by another. Shortly after the director returned down river, and we were informed that M. Rice had remained at Mompona. Then on 11th August the A. B. I. R. steamer again arrived at Baringa with Mr. Delvaux, en-route for the Upper Maringa, accompanied by Commandant H———, with a body of soldiers. The general talk is that he has gone to fight the people and make them bring in more rubber.

"An armed sentry was sent round to the inland villages of this district telling them to work rubber. We are informed by the soldiers here that, on the return of the steamer from up river, their wives are to be sent down to Bassankusu, and they and their white men are going all round the country hunting the people and forcing them to work rubber. In the light of the past rubber-hunting expeditions and all the revelations made before the commission of inquiry, I leave you to imagine the scenes of bloodshed and the unspeakable horrors that are now about to be perpetrated upon the unhappy people in the far interior. And all this while the words of the commissioners are still fresh in the ears of the people, promising them that their sufferings were at an end! It would seem that the commission of inquiry was only intended to deceive the public, and give the men out here breathing time in their unholy work. Be it remembered that in this case it is the State itself which is opening this new chapter of horrors for the benefit of the rubber company.

"At one moment it is the company that is the tool of the State, whilst at another time it is vice versa, but it is useless to differentiate between them. For all practical purposes they are one and the same.

"A few months ago the director of the A. B. I. R. said that a commission was coming to examine the forests, to find out whether there was rubber and to what amount. It has come in the shape of Commandant H——— and his subordinate officers, with their respective companies of soldiers, who are to scour the country, carrying death and destruction in their train, in order to drive the people into the depths of the forest to search for rubber—for that substance which to the people has become synonymous with death. It is piteous to hear the natives plead that the rubber is finished, and ask to be allowed to bring meat or pay their taxes in some other way, but nothing will suffice except rubber. Some time ago there were reports that the State was going to take over the A. B. I. R., but that is no longer spoken of. But it would make no difference, for exactly the same system would remain, and what the State was able to pronounce illegal when done by the A. B. I. R. would be legal when done by themselves."

[a] Spelled "Rice" in Mr. Stannard's letter. From the description apparently M. F. Reiss, described in the official statutes of the A. B. I. R. Society as "commissaire" of that society.

REPORTS OF COMMITTEES.

Mr. GEARIN, from the Committee on Claims, to whom was referred the bill (H. R. 11976) for the relief of the Compañia de los Ferrocarriles de Puerto Rico, reported it with an amendment, and submitted a report thereon.

Mr. FRAZIER, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5927) for the relief of the board of trustees of West Tennessee College, Jackson, Tenn.; and

A bill (H. R. 14541) for the relief of C. R. Williams.

Mr. SCOTT, from the Committee on Military Affairs, to whom was referred the bill (S. 3863) to correct the military record of Stephen Thompson, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. 3686) for the relief of Robert G. Carter, United States Army (retired), reported adversely thereon, and the bill was postponed indefinitely.

Mr. WARNER, from the Committee on Indian Affairs, to whom was referred the bill (S. 2418) to enable the Indians allotted lands in severalty within the boundaries of drainage district No. 1, in Richardson County, Nebr., to protect their lands from overflow, and for the segregation of such of said Indians from their tribal relations as may be expedient, and for other purposes, reported it without amendment, and submitted a report thereon.

Mr. FULTON, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 10605) for the relief of Edward F. Stahle;

A bill (H. R. 6675) for the relief of the Methodist Church at New Haven, Ky.; and

A bill (H. R. 6982) for the relief of James W. Jones.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (S. 4823) for the relief of Madison County, Ky., reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3329) for the relief of Madison County, Ky., reported adversely thereon, and the bill was postponed indefinitely.

Mr. LODGE, from the Committee on Military Affairs, to whom was referred the bill (S. 5028) to remove the charge of desertion from the military record of Thomas F. Callan, alias Thomas Cowan, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4794) to correct the military record of John McPherson, reported adversely thereon, and the bill was postponed indefinitely.

Mr. FOSTER (for Mr. TALIAFERRO), from the Committee on Military Affairs, to whom was referred the bill (S. 5358) to remove the charge of desertion from the record of Edward Kelly, reported it with an amendment, and submitted a report thereon.

JUDICIAL DISTRICTS OF IOWA.

Mr. KITTREDGE. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. 16014) to amend an act entitled "An act to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein," approved June 1, 1900, and all acts amendatory thereof, to report it favorably with amendments. I ask the attention of the Senator from Iowa to this report.

Mr. ALLISON. This is a local bill affecting one of the judicial districts in Iowa, and it is rather important that it should be passed without delay. It will take no time. I ask unanimous consent that it may be considered now. It is a House bill with amendments.

The Secretary read the bill, and there being no objection the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment of the Committee on the Judiciary was, to add at the end of section 1, line 2, page 2:

And the county of Appanoose, heretofore within said southern division, is hereby transferred to and made a part of the eastern division of the southern judicial district of Iowa.

The amendment was agreed to.

The next amendment was, to add as section 3:

SEC. 3. That all crimes and offenses against the laws of the United States committed within said Appanoose County shall be prosecuted, tried, and determined at the terms of the circuit and district courts of said eastern division of the southern judicial district of Iowa at Keokuk, in Lee County: *Provided, however*, That all criminal offenses committed prior to and all prosecutions begun and pending at the taking effect of this act shall be proceeded with and finally determined as if this act had not been passed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

SHILOH ELECTRIC RAILWAY COMPANY.

Mr. OVERMAN. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. 16125) authorizing a license and permit to the Corinth and Shiloh Electric Railway Company to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon, to report it favorably without amendment.

Mr. MONEY. I ask unanimous consent for the present consideration of the bill (H. R. 16125) authorizing a license and permit to the Corinth and Shiloh Electric Railway Company to construct a track or tracks through the Shiloh National Park, and to operate electric cars thereon, which has just been reported by the Senator from North Carolina [Mr. OVERMAN]. I make this request because there is no opposition to the bill. It merely affords a mode of travel to visitors to that military park, which they have not now.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. KEAN. That appears to be rather an important bill, Mr. President.

The VICE-PRESIDENT. Does the Senator from New Jersey object to its consideration?

Mr. KEAN. I should like first to hear some explanation of it.

Mr. MONEY. Mr. President, in response to the request of the Senator from New Jersey, I will say that this is a bill which has been reported favorably and passed by the House of Representatives, and it has been reported favorably by the Committee on Military Affairs of the Senate. It is designed to enable an electric traction company to extend its line to the military park at Shiloh. There are a great number of visitors going to that park, and the means of access to it are very difficult. The present road is quite insufficient, it being in a country where there is no rock. The object of the construction of this road is to afford facilities to people to visit that national park. The bill has been approved by the Secretary of War and also by the Park Commission. There is no opposition to it anywhere that I know of, and I do not see how there could be. It is a matter which ought to be acted on as soon as possible, because this road is now being built, and it is desired to go on with it. It is simply a license to the company to lay the necessary tracks.

Mr. KEAN. I will state to the Senator that this seems to be rather an important bill. It has just been reported this morning, and I think it had better go to the Calendar.

The VICE-PRESIDENT. Under objection of the Senator from New Jersey, the bill will go to the Calendar.

Mr. MONEY. I hope the Senator will examine the bill and not make objection to it the next time it comes up.

Mr. OVERMAN, from the Committee on Military Affairs, to whom was referred the bill (S. 5616) authorizing a license and permit to the Corinth and Shiloh Electric Railway Company to construct a track or tracks through the Shiloh National Park and to operate electric cars thereon, reported adversely thereon, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. DUBOIS introduced a bill (S. 5665) to regulate the employment of child labor in the District of Columbia; which was read twice by its title, and referred to the Committee on Education and Labor.

Mr. McLAURIN (by request) introduced a bill (S. 5666) to refund legacy taxes illegally collected; which was read twice by its title, and referred to the Committee on Finance.

Mr. MALLORY introduced a bill (S. 5667) for the relief of the estate of John Bunch, deceased, and others; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURKETT introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5668) granting an increase of pension to George P. Sealey; and

A bill (S. 5669) granting an increase of pension to Leander C. Hicks.

Mr. TALIAFERRO introduced a bill (S. 5670) granting an increase of pension to Isaac L. Duggar; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PROCTOR introduced a bill (S. 5671) granting an increase of pension to Richard L. Delong; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. SMOOT introduced a bill (S. 5672) granting an increase of pension to Felix G. Murphy; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 5673) granting an increase of pension to Hilton Springsteed; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLARK of Wyoming introduced a bill (S. 5674) to make sections 6, 8, 13, 14, 15, 16, and 18 of the act of May 28, 1896, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1897, and for other purposes, applicable to the office of the United States district attorney for the southern district of New York and his assistants, except as otherwise provided in this act; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BURROWS introduced a bill (S. 5675) for the relief of Maj. Seymour Howell, United States Navy, retired; which was read twice by its title, and referred to the Committee on Claims.

Mr. CLAY introduced a bill (S. 5676) for the relief of the heirs of the late James S. Calhoun; which was read twice by its title, and referred to the Committee on Claims.

Mr. FRAZIER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 5677) for the relief of George T. Larkin (with accompanying papers);

A bill (S. 5678) for the relief of the Mountain Creek Baptist Church, of Hamilton County, Tenn. (with an accompanying paper); and

A bill (S. 5679) for the relief of the estate of F. K. Center, deceased (with accompanying papers).

Mr. FRAZIER introduced a bill (S. 5680) granting an increase of pension to Thomas J. Bowser; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FULTON introduced a bill (S. 5681) granting an increase of pension to William Grant; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HANSBROUGH (for Mr. GAMBLE) introduced a bill (S. 5682) to permit Dollie A. Fountain, of Walworth County, S. Dak., to purchase certain lands herein mentioned; which was read twice by its title, and referred to the Committee on Public Lands.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. OVERMAN submitted an amendment proposing to appropriate $75,000, to be expended under the direction of the Bureau of Manufactures, to investigate the commercial and industrial conditions of foreign markets, etc., intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $3,000 to reimburse George W. Dant for losses and expenses, including counsel fees, incurred by him growing out of the Ford's Theater disaster on June 9, 1893, intended to be proposed by him to the general deficiency appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Appropriations.

Mr. DOLLIVER submitted an amendment relative to the distribution of the annual appropriations for the fulfillment of existing treaty stipulations with the Sac and Fox Indians of the Mississippi, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

DISPOSAL OF TIMBER ON PUBLIC LANDS.

Mr. CLARK of Montana submitted an amendment intended to be proposed by him to the bill (S. 5327) providing for the disposal of timber on public lands chiefly valuable for timber, and for other purposes; which was ordered to lie on the table, and be printed.

WITHDRAWAL OF PAPERS—SHEFFIELD L. SHERMAN, JR.

On motion of Mr. WETMORE, it was

Ordered, That the Secretary of the Senate be directed to take from the files of the Senate the papers accompanying the bill (S. 5578, 59th Cong.) granting an increase of pension to Sheffield L. Sherman, jr., and return the same to said Sherman, there having been no unfavorable report on the said bill.

URGENT DEFICIENCY APPROPRIATION BILL.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2 and 11.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 6, 7, 9, and 12; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: Strike out in the last line of said amendment the words "to be available until used" and insert in lieu thereof the following: "to continue available during the fiscal year nineteen hundred and seven;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: Add at the end of said amendment the following: "and, to continue available during the fiscal year nineteen hundred and seven;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In line 1 of said amendment strike out the words "silver coin, including;" in line 2 strike out the word "fifteen" and insert in lieu thereof the word "ten;" in line 5, before the word "silver," insert the word "fractional;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In lieu of the sum proposed in said amendment insert "two thousand five hundred dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"WAR DEPARTMENT.

"For completion of the contract for grading and filling the reservation at Washington Barracks, District of Columbia, entered into by Captain John Stephen Sewell, Corps of Engineers, in May, nineteen hundred and three, twenty-five thousand five hundred dollars;" and the Senate agree to the same.

EUGENE HALE,
W. B. ALLISON,
H. M. TELLER,
Managers on the part of the Senate.

LUCIUS N. LITTAUER,
JAMES A. TAWNEY,
L. F. LIVINGSTON,
Managers on the part of the House.

The report was agreed to.

DEPARTMENTAL INFORMATION AFFECTING MARKETS.

Mr. CULBERSON. Mr. President, I desire to submit a concurrent resolution, but before doing so, I ask the indulgence of the Senate for a moment to make an explanation.

Several weeks ago the House of Representatives passed a bill, H. R. 10129, amending section 5501 of the Revised Statutes. The Senate after receiving the bill passed it with an amendment and it went to conference. The conferees reported to each of the Houses among other things an amendment to add, after the word "thereof," on page 2, line 14, of the bill, the words "and every member of Congress." The report of the conference committee stated frankly that in the judgment of the committee this amendment was contrary to the rule of the two Houses because it had not passed either of the Houses. On objection by several Senators the report was withdrawn. The Senator from Massachusetts [Mr. LODGE] suggested that the matter could be cured by the adoption of a concurrent resolution authorizing the committee of conference to make the amendment to which I have called attention. In order that that may be done I offer the concurrent resolution which I send to the desk.

The concurrent resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10129) to amend section 5501 of the Revised Statutes of the United States, be, and the same is hereby, authorized to agree to an amendment on page 2, line 14, of the bill, by inserting after the word "thereof" the words "and every member of Congress."

Mr. CULBERSON. I ask for the immediate consideration of the concurrent resolution.

The VICE-PRESIDENT. Is there objection to its present consideration?

Mr. GALLINGER. I ask that it be read again.

The concurrent resolution was again read.

Mr. GALLINGER. I have no objection to it.

Mr. TELLER. Mr. President, I am not going to object to the consideration of the resolution, but I should like to suggest to the Senator who offers it that it would be quite as easy and, in my opinion, a good deal more regular to enact it as a law instead of passing a resolution giving instructions to the conferees. We have power to amend the existing law in this way if we see fit or we can pass an independent bill.

I do not object to the resolution, but, as a matter of propriety and regular proceeding in the Senate, I do not think it a wise course to pursue. Beyond that I do not care to say anything.

The VICE-PRESIDENT. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CULBERSON. I will simply say, in answer to the suggestion of the Senator from Colorado, that on the consideration of this matter several weeks ago it was suggested by the senior Senator from Massachusetts [Mr. LODGE] that the amendment might be made in this way, and so far as I now remember no one in the Chamber (and I think the Senator from Colorado was here at the time) objected to that course. The suggestion apparently meeting the unanimous approval of the Senate, certainly of those present, by their failure to object, I simply pursued this course because I believed it to be in accordance with the general wish of the Senate on the subject.

The VICE-PRESIDENT. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

FIVE CIVILIZED TRIBES.

Mr. CLAPP. I ask that the conference report on House bill 5976 be laid before the Senate.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

The VICE-PRESIDENT. The question is on agreeing to the report. On that question the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I am paired with the Senator from Missouri [Mr. STONE]. He is not in the Chamber, and I withhold my vote.

Mr. MCENERY (when his name was called). I am paired with the junior Senator from New York [Mr. DEPEW], and therefore I withhold my vote.

The roll call was concluded.

Mr. ALLISON. I am paired with the senior Senator from Alabama [Mr. MORGAN] on this question, he being necessarily absent from the Chamber.

The result was announced—yeas 41, nays 11, as follows:

YEAS—41.

Aldrich	Culberson	Hansbrough	Proctor
Allee	Cullom	Heyburn	Scott
Ankeny	Dick	Kittredge	Smoot
Bacon	Dillingham	Knox	Sutherland
Bulkeley	Dolliver	Lodge	Teller
Burkett	Dubois	Long	Warner
Carter	Flint	McCumber	Warren
Clapp	Foraker	Nixon	Wetmore
Clark, Mont.	Frye	Penrose	
Clay	Fulton	Perkins	
Crane	Gallinger	Piles	

NAYS—11.

Blackburn	Latimer	Money	Simmons
Daniel	McLaurin	Overman	Tillman
Kean	Mallory	Rayner	

NOT VOTING—37.

Alger	Clark, Wyo.	Hale	Newlands,
Allison	Clarke, Ark.	Hemenway	Patterson
Bailey	Depew	Hopkins	Pettus
Berry	Dryden	La Follette	Platt
Beveridge	Elkins	McCreary	Spooner
Brandegee	Foster	McEnery	Stone
Burnham	Frazier	Martin	Taliaferro
Burrows	Gamble	Millard	
Burton	Gearin	Morgan	
Carmack	Gorman	Nelson	

So the report was agreed to.

AGREEMENT WITH LOWER BRULÉ BAND OF INDIANS.

Mr. CLAPP. I ask the Chair to lay before the Senate the amendments of the House of Representatives to Senate bill 980, which has just come from the House.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 980) to ratify an agreement with the Lower Brulé band of the Sioux tribe of Indians in South Dakota, and making appropriation to carry the same into effect.

The amendments of the House of Representatives were to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell or dispose of the west half of townships 106, 107, 108, 109, and 110 north, range 77 west of the fifth principal meridian, and fractional townships 106, 107, 108, 109, and 110 north, range 78 west of the fifth principal meridian, and fractional township 110 north, range 79 west of the fifth principal meridan, the same being the western portion of the Lower Brulé Indian Reservation in South Dakota, comprising approximately 56,560 acres: *Provided*, That sections 16 and 36 of the lands in each township shall not be disposed of, but shall be reserved for the use of the common schools and paid for by the United States at $1.25 per acre, and the same are hereby granted to the State of South Dakota for such purpose: *Provided further*, That any Indians to whom allotments have been made on the tract to be ceded may, in case they desire to do so before said lands are offered for sale, relinquish same and select allotments in lieu thereof on the diminished reservation.

SEC. 2. That the Secretary of the Interior shall cause said lands, except sections 16 and 36 in each township, to be appraised by legal subdivisions, and when all of said lands have been appraised the same shall be disposed of under the general provisions of the homestead laws of the United States, and shall be opened to settlement and entry at not less than their appraised value by proclamation of the President, which proclamation shall prescribe the manner in which these lands shall be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars and the Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *Provided further*, That the price of said lands when entered shall be that fixed by the appraisement or by the President, as herein provided for, which shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior, upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, promptly when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry: *And provided further*, That the lands embraced within such canceled entry shall, after the cancellation of such entry, be subject to entry under the provisions of the homestead law, at the appraised value until otherwise directed by the President, as herein provided.

When the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided*, That the entryman shall make his final proofs in accordance with the homestead laws within six years, but nothing in this act shall prevent homestead settlers from commuting their entries under section 3301, Revised Statutes, by paying for the land entered the appraised price, receiving credit for payments previously made; and that aliens who have declared their intention to become citizens of the United States may become such entrymen, but before making final proof and receiving patent they must have received their full naturalization papers: *Provided further*, That the fees and commissions to be paid in connection with such entries and final proofs shall be the same as those now provided by law where the price of the land is $1.25 per acre: *And provided further*, That when, in the judgment of the President, no more of the said land can be disposed of at the appraised price, he may by proclamation, to be repeated at his discretion, sell from time to time the remaining lands subject to the provisions of the homestead laws, or otherwise, as he may deem most advantageous, at such price or prices, in such manner, upon such conditions, with such restrictions, and upon such terms as he may deem best for all the interests concerned.

SEC. 3. That the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, shall, after deducting the amounts of the expenses incurred from time to time in connection with the appraisements and sales, be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal rights on the Lower Brule Reservation, and shall be expended for their benefit, under the direction of the Secretary of the Interior.

SEC. 4. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $5,000, or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota, as provided in this act, and for the necessary expenses of appraising said lands as provided herein: *Provided*, That the money expended in appraising said lands shall be reimbursable and shall be deducted from the proceeds received from the sale thereof.

SEC. 5. That the Secretary of the Interior is hereby vested with full power and authority to make all needful rules and regulations as to manner of sale, notice of same, and other matters incident to the carrying out of the provisions of this act, and with authority to reappraise said lands if deemed necessary from time to time, and to continue making sales of the same, in accordance with the provisions of this act, until all of the lands shall have been disposed of: *Provided*, That all lands herein ceded and opened to settlement under this act remaining undisposed of at the expiration of five years from the taking effect of this act shall be sold and disposed of for cash, under rules and regulations to be prescribed by the Secretary of the Interior, not more than 640 acres to any one purchaser.

SEC. 6. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36 or the equivalent in each township, or to dispose of said land except as provided herein; or to guarantee to find purchasers for said lands, or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over and expend the proceeds received from the sale thereof only as received, as herein provided.

To strike out the preamble.

And to amend the title so as to read: "An act to authorize the sale of a portion of the Lower Brule Indian Reservation in South Dakota, and for other purposes."

Mr. CLAPP. I move that the Senate concur in the House amendments.

The motion was agreed to.

WATER RESERVOIRS AT DURANGO, COLO.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2188) granting to Durango, in the State of Colorado, certain lands therein described for water reservoirs, and the amendments were referred to the Committee on Public Lands.

HOUSE BILL REFERRED.

H. R. 12872. An act to amend an act entitled "An act to amend and codify the laws relating to municipal corporations in the district of Alaska," approved April 28, 1904, was read twice by its title, and referred to the Committee on Territories.

STATUE OF GEN. NATHANAEL GREENE.

Mr. SIMMONS. I ask unanimous consent——

Mr. TILLMAN. I shall have to insist that we can not enter upon the unanimous-consent agreements for the consideration and passage of private or special bills. There are two Senators waiting to address the Senate, and I now ask that the Senate proceed to the consideration of the rate bill. The Senator from North Carolina [Mr. SIMMONS] can get his bill in a little later.

Mr. SIMMONS. I will say to the Senator that this is a very short bill.

Mr. TILLMAN. If I give way to the Senator, some one else will want to get in. However, I will give way to the Senator, but I give notice that I shall surrender to no one else.

Mr. SIMMONS. I ask unanimous consent for the present consideration of the bill (S. 2072) to provide for the erection of a statue of Gen. Nathanael Greene on the battlefield of Guilford Court House.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate $25,000 for the preparation of a site and the erection of a statue of Gen. Nathanael Greene on the battlefield of Guilford Court House, in Guilford County, N. C.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REGULATION OF RAILROAD RATES.

Mr. TILLMAN. I now ask that the unfinished business may be laid before the Senate.

The VICE-PRESIDENT. The Senator from South Carolina asks that the unfinished business be laid before the Senate. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. LATIMER. Mr. President, the agitation for Government supervision of railroads has been prominently before the country for a number of years, and the people, in my judgment, without regard to section or party, are back of this agitation. In the earlier period of railroad development the people, through their holdings of stock and the liberal aid which was granted by the State, had an interest in almost every railroad enterprise. While that condition of affairs continued complaints against railroad management were few. When, however, railroads became profitable and the necessity for public aid no longer existed, they gradually passed under the control of corporations through various schemes of reorganization. As corporate control progressed, complaints increased. At the present time seven corporations control practically all of the railroads of the country, and no argument is necessary to convince a thinking man that this consolidation means the elimination of competition and the placing of despotic power in the hands of a few men. This monopoly of the transportation facilities and elimination of competition has brought about gross abuse of the rights of the public by the railroads, and it is the imperative duty of Congress to exercise its power to see that the interests of the people are protected.

I am not disposed to support the passage of any measure which will unjustly affect the railroads. The people demand nothing unfair. On the contrary, they realize that the railroads have been one of the most important factors in the development of the country, and that any enactment of law which would cripple them would be a grievous mistake. The greatest care should be exercised in the framing of a law intended to give relief to the people to see that no injustice is done the railroads.

I have followed the debates in the House and Senate on the pending bill with great interest. Such diversity of opinion exists as to the powers of Congress to deal with this question that it is difficult to reach a conclusion satisfactory to myself. I have grave doubts as to whether any legislation that may be enacted will prove effective in putting a stop to the unjust practices of the railroads. Their ability to circumvent the law will, I fear, be equal to the emergency. I am convinced, however, that they will not suffer injury by reason of any law which may be enacted, and I have little sympathy with the declarations made by their representatives that ruin will follow to them from the passage of this act.

Government regulation of railroads is not a new proposition. Many of the States have commissions which adjust and regulate rates on domestic traffic, and from 1887 to 1897 the Interstate Commerce Commission exercised this power. No injury to the railroads has been shown to have resulted from this supervision. On the contrary, during the ten years when rates were fixed by the Interstate Commerce Commission the railroads made a net profit of about 8 per cent per annum, or 80 per cent for the ten years, and added 35,000 miles of road. The protest made by the railroads against the passage of any legislation on this subject is based, not on their fear of ruin, but on their greed and desire to continue to reap ill-gotten gain.

Mr. President, I will say here that if Congress had the power I would favor the creation of a commission of seven members, with full and final authority to fix rates and make such other rules and regulations as might be necessary to protect the shippers of the country. In my judgment such a commission, which should be composed of men learned in the law, of wide business experience, and knowledge of railroad affairs, would reach as nearly a just and impartial solution of railroad regulation as any tribunal to which the matter could be referred. It would have no interest, directly or indirectly, in the subject-matter of cases coming before it, nor would its investigations be limited by technical rules of law. All of the facts, conditions, and circumstances bearing upon the questions at issue could be gone into, and a judgment rendered which would meet the demands of justice and equity. I believe that such a commission would constitute a board of arbitration between the public and the railroads to which all their differences could be submitted and adjusted in the spirit of compromise to their mutual advantage. None of these advantages could be obtained by conferring jurisdiction upon the courts to adjust these matters. The judges would necessarily have only a theoretical knowledge of the questions brought before them, and would be bound in their judgments by a strict application of technical and sometimes harsh rules of law. What is needed at this juncture is common sense and good judgment, and not the mystifying and confusing distinctions of the law.

In the present crisis, when consolidation of transportation facilities has reached a climax, and when the people are powerless to prevent abuse of railroad power, it is absolutely necessary for the Government to interpose in the interest of the people. That can best be done by organizing a commission with authority and powers sufficiently elastic to embrace all the complex conditions that exist. The only hope for a proper solution of the problem is to deal with it comprehensively, and that can only be done through a specially authorized commission. So strongly am I convinced of the wisdom of this course that I would be glad to see the pending bill passed with an amendment distinctly forbidding any interference by the courts with the work of the Commission. It may be that such a law would be unconstitutional, but that question can not be decided until the Supreme Court of the United States shall have passed upon it. It is our duty as the representatives of the people to enact laws which seem to us to be wise and prudent, and which will give effectual relief when passed. We are the legislative branch of the Government, charged with the responsibility of carrying out the will of the people, and if that will, in this instance, can be carried out best by making the authority of this Commission final, it should be done, leaving to the court the responsibility of construing the law. Should it be held unconstitutional, it will lie in the wisdom of the people to say whether the law should be amended in conformity with the decision of the court, or whether an amendment to the Constitution conferring the necessary power upon Congress to enact such legislation, should be adopted.

If I am correct in my judgment that the organization of a commission with full and final authority to regulate railroads is the wisest and best solution of the problem, then it follows that the Commission should have authority to sustain and enforce its orders. Any restriction of that authority will impair the effectiveness of the work of the Commission, and I believe that it would be better to pass a law giving final authority to the Commission and let the Supreme Court of the United States pass upon it and then reach the situation as it may develop by constitutional amendment, or by modification of the law. It would be a matter of no great difficulty to secure the adoption of such an amendment to the Constitution. Already the legislatures of twenty of the States have passed joint resolutions favoring the passage of stringent railroad legislation, and the innumerable petitions from all classes of the people clearly indicate that the public is thoroughly aroused to the necessity of Government supervision and control of the railroads.

I am led to believe, however, from the discussions that have taken place here and in the House, that we will be unable to pass the pending bill without providing for a review by the courts. This being true, we should pass the bill in such form as will as nearly as possible accomplish the desired end. It is of the highest importance that we should enact a law at this session of Congress. The people are demanding immediate relief, and, not being able to secure what I believe the conditions demand, I shall vote for the pending bill with such amendments as tend to throw safeguards around the work of the Commission.

The pending bill, known as the Hepburn bill, seems to me to embrace in the main all of the essential features needed in a bill of this character. It provides for the public inspection of rates, fares, and charges made by the railroads for the transportation of property and passengers; that all service rendered shall be reasonable and just, declaring unlawful any unjust and unreasonable charge for any service. It also provides that the railroads shall make an annual report and shall furnish to the Commissioners any information which they may desire; that the Commission shall have jurisdiction over private cars, elevators, refrigerators, terminals, private switches, and all other means and devices used by the railroads. Section 15 of the bill provides: That the Commission is authorized and empowered, whenever, after full hearing upon a complaint made under the provisions of the bill, it shall be of the opinion that the rates charged are unjust and unreasonable, or otherwise in violation of this act, to determine and prescribe what will be the just and reasonable maximum rate to be charged in such case; to issue an order that the carrier shall put its findings in effect; and that such order shall go into effect thirty days after notice to the carrier and shall remain in force, unless suspended or modified by the Commission, or by a court of competent jurisdiction.

"Also, that whenever carriers shall publish and file joint rates, charges, etc., and fail to agree among themselves as to the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto; and also, after hearing on a complaint, to establish through routes and joint rates as the maximum to be charged and prescribe the conditions under which the same shall operate; and also to prescribe the value of any service, directly or indirectly, which any owner of property transported under this act may render in connection with such transportation." It is provided in section 16 of the bill, "That for each violation of the orders of the Commission by a carrier a penalty of $5,000 shall be forfeited to the United States, and that in case of a continuing violation each day shall be deemed a separate offense." Also, all necessary provision is made in the act for the enforcement and carrying out of the law.

Various points of objection are made to the bill and many amendments have been offered by Senators, but none of the amendments that I have examined, except that offered by the Senator from Ohio [Mr. FORAKER] disturbs or changes the main features of the bill. The Senator from Ohio is of opinion that Congress can not confer the power to fix rates upon a commission. If his contention should be sustained by the court, then the bill would be of no avail. The Senator from Pennsylvania [Mr. KNOX] urges that the bill should contain a distinct provision for a judicial review of the findings of the Commission, while the Senator from Texas [Mr. BAILEY] contends that, while such a review should be provided for, the power of the courts to issue interlocutory or intermediate orders, suspending the rate fixed by the Commission until after full hearing should be expressly denied. There seems to be a concurrence of opinion

that the only question which the courts can take into consideration upon review of the findings of the Commission is whether or not the rate fixed is just and reasonable.

If the courts are to have the power to review the findings of the Commission, I am in favor of limiting that power by denying them the right to issue interlocutory orders. However, grave doubts as to the power of Congress to do this have been expressed by the Senator from Wisconsin [Mr. SPOONER] and other able constitutional lawyers. The main object which we should seek to accomplish is to prevent mere dilatory litigation on the part of the railroads. I believe that the penal provision of the bill, which fixes a penalty of $5,000 for each violation of the orders of the Commission, will have the effect of preventing an abuse of the right of court review. In other words, it seems to me that, having provided for an able commission, with full power to fix and regulate rates and with a heavy penalty for a violation of its orders, we have secured in the main all the features necessary to make this bill effectual. Not being a lawyer, and therefore unacquainted with legal decisions and distinctions, I am not prepared to discuss the legal phases of this bill. I will be satisfied with the action of the Senate in respect to these matters so long as the main features of the measure are retained.

I do not believe that the right of the courts to review the findings of the Commission, if that review be restricted to the justness of the rate, will impair the practical application of this legislation, provided a heavy fine is imposed upon the railroads as punishment for violating the orders of the Commission, either openly or by recourse to legal proceedings. The Senator from Pennsylvania [Mr. KNOX] has expressed some doubt as to the constitutionality of this provision for a fine, on the ground that the fine provided for in the bill is so large as to practically prevent a review by the court. It seems to me, however, that this contention is not well founded, because no fine will have to be paid if the rates fixed by the Commission are found to be unjust and unreasonable, and the railroads can easily secure immunity from the fine by putting the orders of the Commission in force. But even this difficulty may be obviated by providing that the railroads shall put up a bond to cover the difference between the rate fixed by the Commission and that charged during the litigation. In my judgment, either of these provisions would effectually prevent any undue delay and unnecessary litigation. However, I am convinced that when a Commission, such as is provided for in this bill, shall have been organized and begun its work its decisions will be found to be so uniformly just to all interests concerned that no necessity will exist for further litigation, unless the object be to cause delay and to prevent justice, in which case a fine ought to be imposed.

Mr. President, the combinations of capital which now control the transportation facilities will not voluntarily relinquish their power to any considerable extent. In the absence of preventive legislation, they will continue in the future, as in the past, to wring from the toiling masses their hard earnings and to place increasing burdens upon our commerce. It is the people least able to bear it who, in the last analysis, have to pay the unjust charges fixed by the railroads. More than nine-tenths of our people are dependent upon their daily labor to secure the necessities of life, and in proportion as the price is advanced by excessive cost of transportation their burdens are increased and their opportunities diminished.

I hope that the pending bill, with such amendments as may be required to perfect it, will become law, and that by it relief may be afforded to the people without real injury to the railroads. Delay in the passage of this legislation would, in my judgment, endanger the prospects of its ever becoming law. Another Congress or President might not so truly represent the people on this question. We ought, therefore, to make the best of a favorable opportunity to place upon our statute books a law which is signally in the interest of a majority of our people and in line with our plain duty.

Mr. FORAKER. I do not know what has become of the Senator in charge of the bill. He was here a moment ago. I rise only to inquire whether or not it will be agreeable to him for me to present some amendments at this time. [A pause.] The Senator in charge of the bill has just been discovered.

Mr. TILLMAN. I beg the Senator's pardon.

Mr. FORAKER. It is the first time he was ever off duty since he has been a member of this body.

Mr. TILLMAN. In what way?

Mr. FORAKER. The junior Senator from South Carolina [Mr. LATIMER] concluded his remarks, and apparently there was no one ready to address the Senate further on the bill now before the Senate.

Mr. TILLMAN. Except the Senator from Ohio [Mr. FORAKER], who had informed us yesterday afternoon, and also informed me this morning, that he would proceed this morning, and I was patiently waiting for him to begin.

Mr. FORAKER. I rose to inquire of the Senator whether or not it would be agreeable for me to offer some amendments at this time. Of course, it was a pleasantry I indulged in when I called attention to the fact that he was not at his post; but he was in such excellent company, being with the Senator from Iowa [Mr. ALLISON], and no doubt hearing words of wisdom, that I ought not to complain.

Mr. TILLMAN. I hope the Senator will pardon me and will not accuse me of neglect when I was just waiting for him to begin.

Mr. FORAKER. I exonerate the Senator with pleasure. I have already said he never before was away from his post, so far as I have any recollection.

Mr. President, when, a few days ago, I presented an amendment prohibiting the granting of free passes there was some discussion on that general subject. Since then I have received a number of letters from employees of the railroads, protesting against their being denied passes over the lines of other roads than those on which they are employed. They have made a case so strong as to excite my sympathy, and I want to give notice to the Senator in charge of the bill that I desire to amend the amendment as I originally presented it by striking out, in line 5, on page 2, the words "over its own lines."

The effect of striking out these words will be, if the amendment shall be adopted, to give authority to the officers of the railroads to give a pass to the employees of any railroad, without regard to whether or not they are employees of their particular road. I think if there is any class of people entitled to consideration in connection with this general subject it is that class of people who take their lives in their hands, so to speak, when they accept that kind of employment. I am disposed to show to them every consideration we possibly can consistent with the establishment of a policy that will break up the objectionable features of the pass system.

I have had some other communications in regard to this amendment, on account of which I desire to insert, in line 6, on the first page, after the word "for," the words "the same or equally good accommodations, and;" so that the provision will read:

SEC. 3. That no carrier engaged in interstate commerce shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person a greater or less compensation for interstate transportation of passengers than it charges, demands, collects, or receives from any other person for the same or equally good accommodations, and a like and equally good service.

In that form I shall insist upon the amendment, and would be glad to have a vote upon it at any time that it may suit the convenience of the Senate to vote on amendments.

Mr. HANSBROUGH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from North Dakota?

Mr. FORAKER. Certainly.

Mr. HANSBROUGH. I have examined the amendment offered by the Senator from Ohio and have no hesitation in saying that I think it is a very proper amendment. But I wish to ask the Senator if he thinks his amendment covers the case I shall state. I do not know how far the practice prevails in other States, but in the State of North Dakota it is the practice of the railroad companies once each year to invite and take from their homes in each county in my State to the agricultural college of the State from 50 to 100 farmers free of charge. The farmers are invited to join the excursion at a given point. They are taken to the agricultural college, where they are entertained by the citizens of Fargo, a city of twelve or fifteen thousand inhabitants, and after two or three days there they are returned by the railroad companies without any cost to them.

Now, I ask the Senator if he thinks his amendment would cover that case. I do not care to vote for an amendment that would deprive the farmers of my State of the privilege they are enjoying in this respect.

Mr. FORAKER. The inquiry addressed to me by the Senator from North Dakota only illustrates the difficulty of dealing with this general proposition. I do not think the amendment, as I have framed it and as I have offered it, would allow free passes to be given or free transportation to be given to the people to whom he refers. As I understand, the people to whom he refers are farmers, and they are transported free of cost by the railroads to the agricultural college of the State, where they receive the benefit of education for a limited term—a week or such matter.

Mr. HANSBROUGH. They are entertained by the citizens of Fargo, where the college is located.

Mr. FORAKER. The exceptions, according to the amendment as I now have offered it—and I shall ask that there may be a reprint of the amendment as I have changed it—are as follows:

Provided, That nothing herein shall prevent the free carriage of destitute or indigent persons, or the issuance of mileage or excursion passenger tickets, or prevent such carriers from giving free or reduced transportation to ministers of religion, or to the inmates of hospitals, eleemosynary and charitable institutions, or to prevent any such carrier from giving free transportation to any of its officers, agents, employees, attorneys, stockholders, or directors, or to the families of its employees.

Inasmuch as these people, according to the statement of the Senator from North Dakota, are transported as an excursion, the officials of the road would be authorized to sell transportation to them at a nominal price. They could not give it away; they could not make it absolutely free; but they could make for that particular excursion any kind of a rate, no matter how low it might be; a nominal rate. I think the amendment in the form in which I have it is as liberal as I can make it, though I would be glad to make it more liberal in order to include the class the Senator from North Dakota mentions.

Mr. HANSBROUGH. Before the amendment is voted on I will ask the privilege of offering an amendment to it which will include the class of cases to which I referred.

The VICE-PRESIDENT. The amendment of the Senator from Ohio as modified will be printed and lie on the table.

Mr. FORAKER. I will send it to the desk in order that it may be so dealt with.

Before we pass from that I wish to ask the Senator from South Carolina if he has thought it out enough to have an intelligent notion in his mind whether we shall deal with these amendments one after another at some early day? The point is this: If we are going to discuss all these amendments before we vote on any of them, those that are first discussed will be entirely forgotten long before we come to take a vote, because there have been, I suppose, fifty or sixty amendments offered here. I have offered a number, and I know that nearly every Senator has offered some kind of an amendment.

Mr. TILLMAN. In reply to the question of the Senator from Ohio I will say that I thought I made my own views perfectly clear the other day. I do not believe it would be desirable or wise for us to undertake to pass on amendments in this way, because, as I said then, many Senators are busy on other matters; they are not thinking especially about these amendments; most of the discussion so far has been upon the legal aspect of the question; and in my judgment the wisest and best course for the Senate to pursue, if it wants to have intelligent action by Senators, would be to agree upon some time for the final vote, and then three or four or five or six days preceding that, on full notice to everybody, the Senate would take up the amendments, and under some rule of five-minute or ten-minute or twenty-minute speeches discuss the amendments and dispose of them after they are discussed while the arguments pro and con are fresh in the minds of Senators, and they can determine whether any given amendment is necessary or desirable. That is my own judgment. Of course the Senate will control this matter according to its own wishes, but whenever I make a request for unanimous consent to fix a date for a vote I shall incorporate in it some such provision as that.

Mr. FORAKER. That meets my view entirely. All I want is that at some time we shall take up the amendments as such. I have refrained from pressing any of the amendments I have introduced only because the time until now has been taken up with the general discussion of the subject, and I did not want to break in upon that kind of a discussion with these amendments, which can be better considered separately.

Mr. TILLMAN. I will say further for the information of the Senator that I was informed this morning by the senior Senator from Wisconsin [Mr. SPOONER] that he had not expected to make a speech to-day, though the Senator from Rhode Island [Mr. ALDRICH] had announced such to be the case. He thought he would speak to-morrow; and the Senator from Louisiana [Mr. FOSTER] has just informed me that he feels that he will be able to go on to-morrow or the next day on the general subject. The junior Senator from Wisconsin [Mr. LA FOLLETTE] informed me yesterday that he would be prepared by Tuesday next.

So the general discussion on the varying phases of the bill will not be exhausted before Tuesday, if then, and probably by that time we may be able to get an agreement as to a time for voting; and this question of debating amendments and passing upon them while we are familiar with their character will be incorporated in the agreement—at least, I hope so.

Mr. FORAKER. That is entirely satisfactory.

Mr. LODGE. The Senator from South Carolina spoke of Saturday.

Mr. TILLMAN. That is already assigned, I believe.

Mr. LODGE. We have to be present, I suppose——

Mr. TILLMAN. At the services.

Mr. LODGE. At the laying of the corner stone.

Mr. TILLMAN. Only to-morrow and Monday and Tuesday remain for the set speeches that are already on deck, so to speak, or in sight.

Mr. FORAKER. I would rather postpone the offering of these amendments and the making of comments upon them until amendments are the special order, for I think Senators will then give more attention to amendments. Just now everybody is giving attention to the general subject.

But inasmuch as no one wants to address the Senate I will, if it is agreeable to the Senator from South Carolina having the bill in charge, present another amendment at this time and make some explanation of it.

Mr. TILLMAN. Of course the Senator has no need to get any permission from me, because it is perfectly agreeable to me to hear him always. He always speaks with such force and eloquence that I enjoy him very much.

Mr. FORAKER. I only meant in the sense that I was not conflicting with any purpose the Senator might have in view with respect to the bill.

Mr. ALLISON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. ALLISON. I wish to make a single suggestion with reference to dealing with amendments. It seems to me, in order to avoid complication in voting on amendments, it might be wise to take up the bill and consider it by sections, so that one section can be taken up and amendments to that section may be offered and disposed of, and so with the next section.

Mr. FORAKER. I think that is a good suggestion, and it is entirely agreeable.

Mr. ALLISON. I only wanted to make the suggestion.

Mr. FORAKER. That does not conflict with what I have in view now.

Mr. ALLISON. I understand. I merely wished to make the suggestion.

Mr. FORAKER. The amendment I now offer is an amendment adding a section to the bill. It does not conflict with any provision in the bill.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Rhode Island?

Mr. ALDRICH. The only remark I wish to make is that all these suggestions as to methods of procedure are, I suppose, in a certain sense premature. When that matter is up we will consider them carefully.

Mr. FORAKER. There is no agreement being attempted.

Mr. MORGAN. I should like to have a statement from the Chair as to what the rule of the Senate is in considering the bill. My view of it is that suggested by the Senator from Iowa [Mr. ALLISON], that the rule of the Senate requires that when a bill is taken up for consideration it shall be considered by sections, and disposed of section by section; that all amendments relating to a particular section shall be considered, and then the section is passed over and we take up the next section. That is the rule of the Senate.

The VICE-PRESIDENT. The Chair understands that to be the general practice.

Mr. MORGAN. That is the rule of the Senate. I want to say that in this matter I intend to object to any departure from that rule. If I am here, I shall object to any unanimous-consent agreement that seeks to set aside that rule.

Mr. FORAKER. I did not hear what the rule is to a departure from which the Senator from Alabama says he will object.

Mr. ALDRICH. I submit to the Chair the suggestion that there is no rule of the Senate which provides for the treatment of amendments. The mode of procedure has usually been fixed by unanimous consent from time to time on different bills. I think there is no rule of the Senate on the subject.

The VICE-PRESIDENT. The method suggested by the Senator from Alabama is according to the usual parliamentary practice, as the Chair understands.

Mr. ALDRICH. Yes; but there is no rule of the Senate on the subject.

The VICE-PRESIDENT. There is no written rule, but it has been sanctioned by practice.

Mr. MORGAN. It has been sanctioned by practice to such

an extent that I am justified in objecting to any departure from it.

Mr. ALDRICH. But there is no rule.

Mr. FORAKER. When the time comes we can no doubt agree as to how the amendments shall be disposed of.

The amendment to which I now call the attention of the Senate and which I shall offer, as I have already stated, as an additional provision to be attached at the end of this bill, is an amendment which provides an alternative remedy as against these evils. It provides, Mr. President, that when a complaint is made before the Interstate Commerce Commission, the shipper, if he be the complainant, or a community, if it be the complainant, may elect to proceed under this provision instead of under the provision of the Hepburn bill, if we enact it into law.

This is a proceeding that will be had in the courts altogether. That there is a necessity for some such proceeding as this being provided for at the present time is made more and more plain to my mind by every Senator who addresses the Senate. The Senator from South Carolina [Mr. LATIMER], who concluded his remarks only a moment ago, said, in concluding, that the bill was not according to his liking; he would be glad to have it amended; and in some amended form, although he might not like it, he was going to vote for it. And so it was in the House of Representatives. When the committee reported this bill they took care to say that it was probably not satisfactory to any member of the committee that reported it favorably. It is common knowledge that the so-called "Hepburn bill," if it be enacted into law, will not meet entirely the views of more than a few Members of the House or members of the Senate; perhaps it will not entirely meet the views of anybody.

While there is that diversity of opinion as to what this legislation should be, there is no difference of opinion, Mr. President, on the point that if we enact the Hepburn bill or any measure like it, without amendment, we will necessarily encounter a great many constitutional and legal questions. I am not going to speak about them now, because I have done that on another occasion at length. But I will call the attention of the Senate to the fact that the Hepburn bill raises, in the first place, a question as to whether or not Congress has power to fix rates at all. Senators may say that this is not a serious question, but I think it is. I think the Supreme Court took pains to advise us that it is an open question upon which it does not regard itself as having expressed an opinion, and that in so recent a case as the Northern Securities case.

It will raise also—if that point be passed safely when this bill becomes a law and is put to the test in the courts, as no doubt it will be sooner or later—the question whether, under this bill as it is drawn, as it passed the House, as it was reported from the Senate Committee on Interstate Commerce, as it stands down to this moment, does not delegate legislative power to the Interstate Commerce Commission. Of course I do not know how it may be amended in that particular; it is possible that it will be so amended as to obviate that question; but it seems to me it is impossible to obviate it, and it is a serious question which we should avoid, if we possibly can, by legislating upon this subject.

Then, in addition to those questions, the bill will raise the question, if it becomes a law and be put into operation, as to port differentials; whether the Commission can, if the rates over any road to any one of the Atlantic ports of entry be challenged, maintain as against that challenge the difference in rates which confessedly has been made only to overcome the natural advantages of the port of New York as compared with the port in whose favor the differential in question is made.

It will raise another very important and, I think, most serious question, as to whether we can constitutionally empower the Commission in the way it is proposed to empower it, to establish through routes and make joint rates as to railroads that can not and will not agree, but which are as separate and distinct as two individuals may be.

Then there is another serious question arising because of the penalties provided in this bill, and another because of the elimination, as I will term it, of jury trials in actions brought on awards of damages made by the Commission. I do not mean the elimination in express terms, for everybody will say that could not be done, but the elimination of jury trial by making a jury trial utterly impossible in the form of action provided for in this bill.

Then, in addition to that, I think a very serious question will be raised, if this bill be not properly amended so as to avoid it, as to the power of visitation which it undertakes to confer upon the Commission, to be exercised by it. As to these common-carrier companies, they being companies incorporated under State laws, I doubt the power of Congress, in regulating interstate commerce, to go further than the regulation of interstate commerce may require. I doubt the power of Congress, for instance, to require that a corporation organized under the laws of a State, engaged not only in interstate commerce, but also in intrastate commerce, shall keep no books, not even a memorandum of a transaction, except only such as the Interstate Commerce Commission may prescribe. I doubt the power of Congress to have anything whatever to do, except only to gather information for statistical purposes, with the business of a corporation that is confined wholly to a State.

Mr. President, there are other questions than these which will be raised. Some of them have already been very elaborately argued. Some questions have been raised also by amendments; but I am speaking only of those that the bill itself necessarily raises. I do not mention these questions for the purpose of now taking them up and debating them, for I have already heretofore done that. I only mention them to show that if what we have in view is not simply the passage of a rate-making bill, but a remedying of the evils that shippers are justly complaining of, we should avoid in legislating that which raises so many serious constitutional and legal questions, if we can, and we should, if we can, resort to some other method that avoids all of them.

I introduced a bill at the beginning of the session which I thought did avoid all of them. I have become satisfied, however, that that bill, in the form in which I introduced it, can not possibly pass; that a rate-making bill such as this is, or something like it, will pass and having reached that conclusion, I have determined that instead of insisting upon my own bill as a substitute for the pending measure, I will offer this amendment to be added to this bill. It is an amendment that is not in conflict with any provision of the bill. It is an amendment that amounts simply to a broadening and a strengthening of existing law. It is an amendment that not only avoids all these legal complications, but that avoids every question as to the practicability of the law. It is an amendment that involves, if we adopt it, the enactment of law that has already received the sanction of the Supreme Court of the United States, and about which, therefore, there can not possibly be any criticism as to its constitutionality, neither can there be—because experience has demonstrated it—any question as to its workability and entire practicability.

The amendment is merely of the third section of the Elkins law now in force. The amendment has been printed. If any Senator is enough interested to allow a page to hand him a copy of it, he will see at a glance just what is new matter; that it is very simple; that it is very easily understood. It is offered, as I said a moment ago, not to take the place of anything in this measure, but only to preserve and perfect in so far as we can the law now existing, the law in force, the law as to the efficiency of which men have testified without exception who have had to do with the regulation of interstate commerce; a law which the Interstate Commerce Commission has said in its official report is an excellent law, an efficient law; a law which every member of the Interstate Commerce Commission who was asked about it when he appeared before the Interstate Commerce Committee of the Senate testified was an excellent and efficient law and that it had accomplished great good.

In some remarks I made in the Senate on the 28th of February last I set forth at length these testimonials not only from the Interstate Commerce Commission acting officially in the making of its reports, but also testimonials given by witnesses who appeared before the committee, including the members of that Commission and including such distinguished representatives of the sentiment in favor of railway rate legislation as proposed in the Hepburn bill as Governor Cummins, of Iowa; Mr. Cowan, of Texas, and other gentlemen whom I might mention.

I am warranted, Mr. President, in view of the testimony I have already put in the RECORD, in saying that there has never been since the first interstate-commerce act of 1887 any legislation enacted either by the Congress of the United States or by the legislature of any of the States that has done so much to afford to the shippers of this country a remedy that was efficient and satisfactory in its character as the Elkins law, which we enacted in February, 1903. That law as we originally enacted it and as it stands to-day was designed to reach all the evils now complained of except one class of evils. It was aimed expressly by its terms at rebates, in whatever form they might be granted, and at discriminations by the carriers in their treatment of shippers in whatever form or whatever guise those discriminations might be allowed or practiced. When you have reached every form of rebate and every form of discrimination, you have reached every evil that has been complained of except only excessive rates. The Elkins act did not undertake to deal with excessive rates.

Mr. MORGAN. Will not the Senator from Ohio incorporate that act in his remarks and let it go into the RECORD?

Mr. FORAKER. Yes; certainly. The entire Elkins law?

Mr. MORGAN. Yes; the entire act.

Mr. FORAKER. At the request of the Senator from Alabama, I ask that the entire Elkins law be printed in the RECORD as an appendix to my remarks.

The VICE-PRESIDENT. Without objection, it is so ordered.

Mr. FORAKER. I ask also that the amendment which I offered may be printed in full preceding the Elkins law.

The VICE-PRESIDENT. Without objection, it is so ordered. [See appendix.]

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. I have no criticism to make upon the Senator's eulogy on the Elkins law, and I have heard testimonials in favor of it that have been produced from many quarters; but I have not been able to find any actual evidence of the value of that law in dealing with any of the railway abuses with which we have been concerned. It seems to have been, so far as the Government and the courts are concerned, without a very extended application, so far as I can find out.

Mr. FORAKER. Permit me to call the Senator's attention to two or three cases, very celebrated among the cases that have been recently decided, where the litigation was conducted under the Elkins law.

I will first call his attention, however, to the case reported in 189 U. S., with which I know the Senator is entirely familiar, known as the Wichita case, where a suit was brought in equity by the Interstate Commerce Commission against the Missouri Pacific Railroad, at the request of Wichita, to enjoin a discrimination against Wichita, as the Commission alleged in its bill of complaint, the ground being that Wichita was situated on one of the lines of the Missouri Pacific, not on the same line, and less distant from the city of St. Louis than Omaha was, which was situated on another line of the Missouri Pacific, and yet the rate was more to Wichita than it was to Omaha.

That proceeding was commenced before the Elkins law was passed. There was some doubt about the jurisdiction of the court in the court below, because then the Elkins law had not been passed. But when the case reached the Supreme Court the Elkins law had been passed, and the Supreme Court held that the Elkins law took effect and was applicable to that case as well as to any other case that might thereafter be brought, and that the proceeding could be maintained under the Elkins law, and remanded it with that direction to the court.

Mr. DOLLIVER. Now, Mr. President, if anything else has ever happened in that case I have not been able to find a record of it.

Mr. FORAKER. The Senator is aware of what happened. When the case went back the parties adjusted their differences, because here was a plain, unqualified remedy that the Congress of the United States had provided. The Supreme Court having upheld the law, and the way of the litigant being made plain and easy, they got together and adjusted their differences just as effectively as though it had been by a judgment.

Now, let me tell the Senator of another case. The Senator is familiar with what is known as the "Chesapeake and Ohio and New Haven coal case." That was a suit brought under the Elkins law to enjoin a rebate which was being granted and paid by the Chesapeake and Ohio on coal, which the Chesapeake and Ohio itself had sold to the New Haven road in the way the Senator is familiar with. The rebate was granted by making a difference in the price. That proceeding was commenced under the Elkins law, was prosecuted through to the Supreme Court of the United States, and the Supreme Court of the United States held that the court had jurisdiction to enjoin that abuse; and not only to enjoin that abuse, but to enjoin the continuation of the Chesapeake and Ohio in the business of owning coal mines and trading in coal.

Mr. DOLLIVER. But I apprehend, Mr. President, that that suit could have been maintained under the original interstate-commerce law.

Mr. FORAKER. It was not undertaken under the original interstate-commerce law, and I do not think it could have been maintained under that law.

Mr. DOLLIVER. I notice that a similar suit was maintained against all the roads carrying packing-house products out of Kansas City some years before the interstate-commerce law was enacted.

Mr. FORAKER. That suit was commenced under the original law, but in the court below there was a most serious contention as to whether or not the court had jurisdiction, and whether it had power to grant the relief that was prayed for, and the Elkins law came to the relief of that prosecution just as it came to the relief of the other. Since the Elkins law there has been no question about the jurisdiction of the courts to enjoin proceedings of this kind. There is wherein is its great excellence.

Now, a few days ago we had another case called to our attention. A coal-mine operator in West Virginia made complaint that he could not get his fair allowance of cars; that he was discriminated against. He appealed to the Interstate Commerce Commission, and the Interstate Commerce Commission looked into it sufficiently to have an opinion that there was ground for a suit. Immediately, under the Elkins law, it applied for a writ of mandamus to compel the railroad company to grant to this coal-mine operator a fair share of the cars. They alleged, I believe, it was entitled to 33⅓ per cent of the cars that were for the use of the mine operators in that locality. That was heard in the circuit court without delay and a favorable judgment rendered. It was taken to the circuit court of appeals and there that judgment was affirmed, Chief Justice Fuller presiding at the circuit and delivering the opinion, the prayer of the petitioner being granted, with this modification, that instead of allowing 33⅓ per cent of the cars they allowed 31 per cent, which they found to be the exact and proper proportion.

So I might go on if it were not, Mr. President, that the law is yet a comparatively new law and there has not yet apparently been much endeavor to put it into operation by those who are charged with the duty of enforcing it. But in every instance where the law has been applied it has proved, as I said, an efficient remedy and a prompt remedy.

But it yet has some defects. It applies, as I said, only to rebates such as were prohibited in the Chesapeake and Ohio and New Haven coal case, and to discriminations such as were alleged in the Wichita case, as I will call it for the want of a better name—the one I referred to a few moments ago. It did not undertake, as I stated, to deal with existing rates, and why not?

Mr. President, until long after this legislation was enacted nobody heard of any serious complaint about excessive rates. It was all about rebates. For years the shippers of this country have been complaining, and justly complaining, about rebates. Nobody ever made any serious complaint about rates being too high until this agitation commenced, and not then until in the very last months of it.

Rebates and discriminations have been the complaint, and justly so. When a shipper living in Chicago or living in Iowa or living in Cincinnati buys goods in New York, he not only wants a just and reasonable rate, but he wants, above all other things, to know that his competitor in business at home does not get any lower rate than he gets; and it is because he has not been able to know that, it is because this habit of making rebates has been practiced, growing out of the fierce competition to which the railroads were subjected, that the shippers have been making a special complaint about rebates.

Another class of complaint was about discriminations. A shipper did not want to be discriminated against by having a preferential rate allowed to his competitor or by having an allowance made to his competitor on account of a so-called "terminal road," or on account of an elevator charge or on any other account. The community did not want to have rates so adjusted relatively as that it would suffer in its competition with other cities in contending for a market that it wanted to supply.

So we had complaints about rebates and we had complaints about discriminations, but I never heard of a complaint about excessive rates, except now and then, perhaps, some exceptional instance was brought to our attention, until within the last two or three months.

So recently as last November the representatives of the railroad employees of the country called upon President Roosevelt and to him entered a protest against this proposed legislation on the ground that by a reduction of rates their wages might be put in jeopardy. The President said, in answer to them, that he did not think the result of the operation of the proposed law would affect wages, for he did not understand there was to be any reduction of rates, remarking in that connection that he had heard but very little complaint—perhaps he said, "very little, if any, complaint at all"—of that kind. I can not quote his exact language, but that is the effect of it, as every Senator here will remember.

Down, I say, until that time there was no complaint about rates being too high. When a representative of my own home city of Cincinnati came here to testify before the Interstate Commerce Committee, a very intelligent and well-informed man on this subject—Mr. Hooker—he took occasion to say that in his

long experience he had never known of excessive rates. Perhaps he used the words "extortionate rates." He said the complaint was not that rates were in and of themselves too high, but only that they were relatively too high as compared community with community, their particular complaint being that rates over the road from Cincinnati to Chattanooga and Atlanta and other points in the South are relatively too high as compared with the rates from New York and other Atlantic seaboard cities to the same common points in the South.

Now, Mr. President, it was because down until February, 1903, nobody had made any complaint about rates being too high, that we did not undertake to deal with that subject in the so-called "Elkins law." I know whereof I speak, because while I did not draw that law, while I do not know who did draw it, I did help to make amendments to it. I was on the subcommittee to which it was referred, and I remember that for weeks we were studying not only the provisions of that bill, but the whole general subject.

Mr. ELKINS. For months.

Mr. FORAKER. Yes; for months, as the Senator from West Virginia suggests. We were studying it most conscientiously. We were hearing all who came, whether the representatives of shipping interests or the representatives of railroad interests, getting all the light, getting all the information as to what we should do with respect to it; and in all that hearing, from the beginning to the end, not one single witness ever told us about excessive rates. Go search the record and ascertain. It was all about rebates; it was all about discriminations.

Finally we came down with such historical incidents as all are familiar with, but to which I need not now refer, in our experience with this legislation, to the present session of Congress. In the House of Representatives they undertook to deal with this subject; and meanwhile, everybody having been induced to give attention to the general subject, we suddenly had three classes of complaints instead of only two. One was added. To rebates and discrimination were added excessive rates, and we commenced to hear and to discuss about excessive rates.

Well, we had gone over all that in the hearings the Senate committee had given last spring, and with the result that witness after witness testified—shippers and railroad men alike—that so far as they had knowledge there was no serious complaint anywhere of excessive rates. The trouble was about rebates and about discriminations, and all alike testified that rebates and discriminations were being broken up and put an end to by the Elkins law in so far as it was being enforced.

So the House took up this subject with a view of dealing with all these complaints, and they considered rebates in all the various forms in which they have been allowed, not only rebates granted and paid in money, secretly or openly, but rebates allowed by discriminations—by allowance for terminal roads, for elevator charges, for icing charges—rebates of every character and description that could be thought of. Every kind of a rebate that human ingenuity could devise was talked about, and discriminations of every character were testified about, and they considered them in the House; discriminations as to localities, discriminations by means of relative rates that were unjust. I should call attention to another complaint, that of rebates and discriminations by reason of a lack of uniformity in classification. They considered them all, and what was the result? They reported a bill, and in the report not only said, as I said a minute ago, that no member of the committee was entirely satisfied with the bill, but they went on to say that they had found it inconvenient to deal at this time with relative rates between communities, and so they had passed that subject over in silence; that they had found it inconvenient at this time to deal with the subject of uniform classification, and so they passed that over in silence.

As to rebates they did not say anything at all and did not put anything in their bill. They never mentioned them in any way, shape, manner, or form whatsoever, but so far as the classes of complaints we have been hearing so much about were concerned they confined themselves to excessive rates, and had nothing to offer to break up rebates, nothing to offer to change the wrong of unjust relative rates, nothing to break up and destroy discriminations of any kind whatever except only by excessive rates, and excessive rates, as I pointed out, was the least of all the evils that have been complained of.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. Does the Senator from Ohio understand that the bill as passed by the House makes no reference to rates that are unjustly discriminatory?

Mr. FORAKER. No; it does make reference to rates that are unjustly discriminatory in the sense that they are by comparison excessive rates. The Member of the House, Mr. HEPBURN, who had the bill in charge, the Senator will remember, took occasion to speak upon that subject, and others did. There was no common agreement there, and perhaps none here.

Mr. DOLLIVER. If the Senator would examine section 15 of the bill, he would notice that it deals not only with rates which are excessive—that is to say, unjust and unreasonable—but also with rates that are unjustly discriminatory.

Mr. FORAKER. Well, unjustly discriminatory as to what?

Mr. DOLLIVER. In any respect forbidden by law. It undertakes to deal with discrimination involving the relative rates between places by giving the Commission absolute command of the rate at the high point. I will add, while I am on my feet, that probably their failure to go elaborately into the subject of rebates and discriminations was because they shared the fine confidence of the Senator from Ohio in the law of 1903.

Mr. FORAKER. They did, undoubtedly, Mr. President, and that is exactly what I am coming to. I am pointing out with great particularity that, while it is true, as the Senator says, that the word "discriminatory" is used, yet the bill is so framed, as has been asserted over and over again, as to apply only to excessive rates; discriminatory as to what? There is not a word in the bill to show. Not discriminatory as to communities. They expressly say they did not undertake to deal with that subject. They said it in their official report, which I have a right, I suppose, to quote in this presence.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Rhode Island?

Mr. FORAKER. Certainly.

Mr. ALDRICH. I should be glad to know the Senator's opinion as to the meaning of the words "unjustly discriminatory." Does that mean that when a rate, say, from New York to St. Louis, by the New York Central is less than the rate from New York to St. Louis by the Pennsylvania road, it would be a rate that was unjustly discriminatory?

Mr. FORAKER. Well, Mr. President——

Mr. ALDRICH. I should like to have somebody who has authority, if there is such a person, state the meaning.

Mr. FORAKER. I have no authority. I am giving to this bill the interpretation those who framed it and brought it before the House of Representatives gave to it, and I am saying with respect to it that while it uses that indefinite term it does not tell us discriminatory as to what, but it can have but one meaning.

Mr. ALDRICH. Perhaps the Senator from Ohio is willing to allow the Senator from Iowa [Mr. DOLLIVER] to make a statement on this point.

Mr. FORAKER. Yes; I am willing, but I want to say "unjustly discriminatory," as this bill has been interpreted from the beginning, is a complaint that is referred to in the bill for which the remedy provided is a lessening of the rate that may be challenged as unjustly discriminatory because too high as compared with some other rate. That is what has been contended all the while. So you come back, in the case of an alleged discriminatory rate, to the question whether or not the rate that is complained of is too high as compared with some other rate.

Mr. DOLLIVER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FORAKER. Certainly.

Mr. DOLLIVER. I have tried to point out once or twice here that the bill deals only with complaints directed against a railroad or a joint route constituting a line of railroad. Of course it does not undertake to deal with the discrimination that arises from the fact that one railroad between two points charges a different rate than another railroad between two points. In fact, such a case is not imaginable in the present state of the business world.

Mr. ALDRICH. It seems to me that it might be easily imaginable that one party might object to the New York Central Railroad, in the case to which I have alluded, charging much more than the Pennsylvania did for substantially the same service, say, from New York to St. Louis. If people who are suffering from unjust discriminations of that kind have no relief from this bill, as I understand the Senator now to contend, I am very glad to know it.

Mr. DOLLIVER. I have examined a good many railway schedules, and I have failed to find any two roads between two given points, one of them charging a low rate and the other a high one. The railway world would think that that would speedily operate to transfer the entire business to the road that was charging the low rate.

Therefore, I say, the Senator's suggestion is not a practical one. But if a railroad between New York and St. Louis is charging a rate to an intermediate point unreasonably high, which amounts, of course, to a discrimination to those points on the road that are entitled to as low or a lower rate, an absolute command over that discrimination is given to the Commission by this bill, and it is given all authority to reduce that rate, not because it is too high, but because it works an unjust discrimination against some other point on the line.

Mr. FORAKER. I knew the Senator would answer in that way. He could not answer in any other.

Mr. ALDRICH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Rhode Island?

Mr. FORAKER. Certainly.

Mr. ALDRICH. Allow me to pursue that subject one further step. Suppose instead of the rates being from New York to St. Louis, in one case it is a rate from Boston to St. Louis, the distance being greater than from New York to St. Louis, and the rate from Boston to St. Louis is much less than the rate from New York to St. Louis. In considering what should be a reasonable rate from New York to St. Louis, would not the unjust discrimination be taken into consideration?

Mr. DOLLIVER. If it was the same line——

Mr. ALDRICH. No; not the same line at all.

Mr. DOLLIVER. Then this bill gives the law no application to a differential arising between points on separate lines of road.

Mr. ALDRICH. But that is not in the bill. That is only the Senator's contention as to something which is outside of the bill, an understanding of his about it. There is nothing of the kind in the bill.

Mr. DOLLIVER. I am not undertaking to discuss anything that is outside of the bill. I have undertaken to interpret the bill, and I think I have interpreted it correctly, if I can get anybody to read it. I seem to be at a disadvantage in that respect.

Mr. ALDRICH. There is nothing certainly in the bill, and I have read it with more or less care several times, which says that this unjust discrimination must be along the same line.

Mr. DOLLIVER. But the bill says that the complaint must be against a carrier or a line of carriers. The complaint is thoroughly described, and the Commission entertains no complaint except one made under section 13 of the present law.

Mr. ALDRICH. The complaint is that the rate is unreasonable, and the complainant cites instances where there is a rate between two points at a greater distance that is lower, and, therefore, that the rate on that account is not only unreasonable, but unjustly discriminatory.

Mr. DOLLIVER. That would be a question of evidence. If the Senator would examine carefully section 13 of the existing law he would see exactly the character of the complainant and exactly the character of the complaint. Those are the only complainants and the only complaints that could be entertained by the Commission.

Mr. ALDRICH. What is the character of evidence the Commission would be obliged to take into consideration in determining a reasonable rate?

Mr. DOLLIVER. I would not undertake to go into that.

Mr. FORAKER. The Senator from Iowa has contended all the while that only one rate or the rates on one line of road could be challenged and dealt with at a time. I do not think many Senators agree with him as to that. I think when a rate is challenged they can take into consideration other rates between the same points and for such use as may be legitimate and proper in determining whether or not the rate charged is an excessive rate.

Now, in the case put by the Senator, when he comes to illustrate what is meant by discriminatory, he comes to an absolute agreement with me as to what this bill means. We all know that the rate from New York to San Francisco is a very low rate. I do not know exactly what it is, but we will say it is a dollar from New York to San Francisco on first-class goods. I do not know exactly what the rate from New York to Denver is, but we will say it is two dollars and a half, for the sake of illustration, on first-class goods.

Now, what will be the complaint before the Commission if this bill becomes a law? The complaint will be that the rate from New York to Denver, as compared with the rate from New York to San Francisco, is excessive, that it is too high, and in that way it is unjustly discriminatory. In no other sense can the question of discrimination be raised under this proposed statute. In no other sense could they undertake to deal with the subject.

It will not be claimed that under this law the citizens of Cincinnati, for instance, could go before the Commission and say "the rate from Cincinnati to Atlanta is $1," or whatever it may be, "and the rate from New York, twice the distance, is only the same, and therefore we are discriminated against." The Commission could not entertain any such complaint. That is the character of discriminations we have heretofore dealt with.

The other idea that the bill undertakes to deal with is not at all enlarged by the use of the words "unjustly discriminatory," the operation of the bill being confined to a single line, as the Senator from Iowa contends, because it is a question whether under all the circumstances the rate from New York to Denver in the case I put is too high.

Mr. DOLLIVER. Mr. President, unless it can be shown in such a case that the rate from New York to Denver is too high, the evidence is then conclusive that the discrimination, whatever it is, is neither unjust nor unreasonable.

Mr. FORAKER. Certainly; and now the Senator answers himself. In answering whether or not the rate is too high he answers whether or not there is discrimination. If the rate be not too high there is no discrimination. That is just what I was contending for.

But now I want to get back to where I was. I was pointing out that in the House the framers of this bill, by the report, as they have informed us, have shown that they did not undertake to deal with any of these questions, except only whether or not rates were too high. They ignored everything else, and why did they ignore it? They ignored it because they found out that it would be impossible, in the first place, in my judgment, to deal satisfactorily in a measure of this kind with these other difficulties, and because, in the second place, they, too, by their proposition to enact this law without any reference to these other complaints paid tribute to the existing statutes.

They knew, just as we know now, that under the Elkins law, if the Department of Justice will only put it into operation, they can find a remedy for every complaint, and a better remedy than could be provided by such a bill as this, by simply a proceeding in court. That being the kind of law that we have, I have supposed all the while that we could best legislate to provide efficient remedies by strengthening and broadening it and by making the proceeding under that law without expense to the shipper. I set about doing that. It never occurred to me that anybody would become more intent on passing this particular kind of government rate-making legislation than they would be on remedying the evils it is claimed that this legislation is intended to remedy, but in that I seem to have been mistaken.

That law, as I say, provided that when a complaint was made before the Interstate Commerce Commission, and the Interstate Commerce Commission was of the opinion that there was a reasonable ground for the complaint, it might bring suit on behalf of the shipper to enjoin the rebate or to enjoin the discrimination. It said nothing at all about excessive rates. It did not even mention them. Nobody asked for any legislation on that account. Now, however, that excessive rates are being talked so much about, I think we should provide for them; and so, in proposing to amend that third section of the Elkins law, I have provided that, on complaint of the shipper that he is being charged an excessive rate, the Commission shall so far investigate that complaint as to determine whether or not there be reasonable ground to believe that the complaint is well made, and if so, the Commission shall, if the shipper so request, stop its hearing there, if the case is to be proceeded with, and shall at once send it to the Department of Justice, with a statement of the complaint and a brief statement of the facts relied upon to sustain it. Thereupon it shall be the duty of the Attorney-General to send it to the proper district attorney, who shall immediately, without any delay whatever, without any option to him, bring a bill in the circuit court; and it shall be the duty of the court immediately to postpone all other business and proceed summarily to hear that complaint and to pass final judgment upon it. The bill will provide, as I propose to amend it, that this proceeding shall be in the name of the Government, at the expense of the Government, and without any expense whatever to the shipper.

Mr. President, it seems to me, in view of our experience with this statute, that with these amendments it will give a more certain, a more speedy, a less expensive, and more efficient remedy than anything that has been suggested.

Why should this be at the expense of the Government, instead of at the expense of the shipper? For this reason: No shipper who is subjected to an unjust rate suffers alone; he is only one of a class. There may be hundreds, there may be thousands, of shippers who are prejudicially affected by that rate just as the complaining shipper is. The proceeding, therefore, should be in its nature a quasi public proceeding on behalf of all who are interested. That kind of proceeding can not be entertained by the courts, unless we by statute so enact.

Therefore I undertake to confer the power upon the court in such a case as that to entertain a bill setting forth that complaint and asking for relief against it. I have provided that that proceeding shall be not only in the name of the Government, but at the expense of the Government, and without any expense whatever to the shipper. The reason shippers have not had the relief which they should have had is largely due to the fact, Mr. President, that no shipper feels like going to law with a railroad for his antagonist, and he will not do so unless he have a grievous case that he can not well longer endure; but if you make his remedy easy, if you make it without expense to him, if you make it in the name of the Government, the very minute he makes a complaint and the Interstate Commerce Commission investigates that complaint and comes to the conclusion that there is probable ground for it, and then notifies the railroad company, the railroad company, knowing that it is to be sued, not by a shipper but by the Government, without expense to the shipper and at the expense of the Government, will in every case, I think we may safely say, quickly adjust that difference with the shipper if it can possibly do so. No railroad would care to be prosecuted in that way if the complaint were a just one; they would resist only unjust complaints; and in that way we would get rid of much of the litigation that is talked about.

Now, according to the way I have proposed to amend this section, the Interstate Commerce Commission would entertain this complaint, and the shipper, when he files his complaint, will be given an option to say to the Interstate Commerce Commission, instead of proceeding under the Hepburn bill—I will call it that for the sake of intelligently referring to it—and having a full hearing before the Commission and then going into the court under this broad review amendment, which it is insisted shall be put upon this bill, and which I think the probabilities are will be put upon it—the shipper will say: "Instead of proceeding before the Commission, and then proceeding again and doing it all over again in the court, I would rather have the Government take up my battle and fight it for me in the court in the first instance. I ask you, therefore, to send this to the Department of Justice, and have the proper district attorney bring the suit, and I will look on and make suggestions while the fight proceeds and the Government pays the bill."

Mr. BACON. Will the Senator permit me to ask him what he means when he designates definitely by the word "this"—"this broad review?" What broad review does the Senator refer to.

Mr. FORAKER. I said "this broad review" that has been so much discussed here in this Chamber.

Mr. BACON. We have heard quite a number of suggestions as to review and the breadth that it should have. The Senator, being very active and well informed in the matter, and doubtless having information upon which he predicated that expression, I wish—not for argument, but for information—to ask——

Mr. FORAKER. I will give the Senator the information if I can——

Mr. BACON. What is the view of the Senator as to the breadth of the review that is contemplated and which he says he thinks will be incorporated as a feature of the bill?

Mr. FORAKER. Mr. President, in the remarks I made here on the 28th of February, I dealt with that subject and expressed myself fully in regard to it; but I have no objection to briefly restating it. I said in those remarks that we were proposing by this bill to command the Interstate Commerce Commission, when a rate was challenged and found to be unreasonable and unjust, to set it aside and substitute in place of it a rate that would be just and reasonable and fairly remunerative. That did not mean a confiscatory rate nor an extortionate rate.

I said in that connection that as to a confiscatory rate on the one hand or an extortionate rate on the other hand, it was my opinion that the court was open to the carrier whose property was about to be confiscated or to the shipper who was being subjected to an extortionate rate to apply for a remedy, without anything being put in this statute on the subject; but I said, as between the extortionate rate on the one hand and the confiscatory rate on the other, there was a wide latitude. Anywhere between the two extremes the Commission might fix a rate, as to which it might be contended that it was just and reasonable and fairly remunerative, and being a legislative act, it would not be subject to review by the courts unless we should so say. But I said, having commanded them to make a just, reasonable, and fairly remunerative rate, we ought to lodge authority somewhere to revise their work, and say whether or not they had complied with the command of Congress—not that the court should make the rate, but merely ascertain whether the Commission had made a just and reasonable rate. I illustrated that in this way: I said the Commission might make a rate which would yield a return of 6 per cent on the property employed in the transportation; that I did not doubt any court would hold was a just, reasonable, and fairly remunerative rate. They might put it so low as to yield only 4 per cent. About that the courts might differ. It might be so low, again, as to yield only 2 per cent.

I said I thought the court would hold in that case that the Commission had failed to comply with the command of Congress, or had failed to fix a just, reasonable, and fairly remunerative rate, and that the court would say so if we gave it the authority. That is the kind of broad review I have been talking about. I have explained it just as I did when I first spoke, but more briefly, because I do not want to go into it in the extended way in which I then did.

Mr. BACON. What I desired to ask the Senator was whether he meant by that expression a review that would put it into the power of the reviewing court to review the entire action of the Commission?

Mr. FORAKER. I think so.

Mr. BACON. Review it de novo?

Mr. FORAKER. When the Senator says "the entire action of the Commission," I presume it would be necessary to go over the entire action; the bill as it now is, when this question does get before the court, requires the court to go over the entire proceeding, for the bill as it now is——

Mr. BACON. The Senator does not take my inquiry.

Mr. FORAKER. If the Senator will wait just a moment, I think he will see that I do; but I will suffer another interruption, and be glad to be interrupted again. If the Senator so desires, I will hear the Senator now.

Mr. BACON. Mr. President, thanking the Senator for his courtesy, I will say that I was more desirous to get from the Senator what he intended to be understood as meaning by the expression "this broad review." If the Senator will pardon me a moment, I wish to know whether the Senator had in mind a review which would simply cover the law questions in the case—not only the constitutional, but other law questions—or whether he meant a review of the entire action of the Commission, involving not only legal questions, but all questions that might grow out of the exercise of discretion?

Mr. FORAKER. Certainly, Mr. President; all questions—the evidence, all the circumstances, and everything else. I do not think a court could intelligently determine whether or not a commission, in fixing a particular rate as just and reasonable and fairly remunerative, had acted in compliance with the command of the statute unless the court was possessed of all the facts that operated on the mind of the Commission.

Mr. BACON. I understand the Senator by that means to accomplish that which he has suggested on some previous occasion—that this really ought to be with the court, if it is to be exercised, and not with the Commission; that the Commission really would, under the view of the Senator, be very little more than those who would suggest, and that the court at last would be the tribunal which would determine and fix the rates. Is that the view of the Senator?

Mr. FORAKER. That is the view, though I might state it somewhat differently from what the Senator has stated it.

Mr. BACON. I am asking that for the purpose of asking the Senator a succeeding question when I fully understand what his proposition is.

Mr. ALDRICH. With the permission of the Senator from Ohio [Mr. FORAKER], I will suggest to him that the proposition of the Senator from Georgia [Mr. BACON] is a very broad one—that the court shall fix the rate.

Mr. FORAKER. No; I did not observe that the Senator from Georgia said that. Did the Senator ask me whether or not I advocated the fixing of rates by the court?

Mr. BACON. No; the Senator from Rhode Island [Mr. ALDRICH], I think, does not exactly state what I said; and, with the permission of the Senator, I will endeavor to again state it.

Mr. FORAKER. I am going to speak presently as to what the power of the court is in respect to fixing rates——

Mr. BACON. Mr. President——

Mr. FORAKER. And if the Senator will only yield to me until then, I think I will answer what is in his mind.

Mr. BACON. I want to correct what the Senator from Rhode Island [Mr. ALDRICH] suggested as to what I had said. I did not intend at least—and I do not think that the RECORD will bear out the statement—to say that the purpose was to have the court fix the rate.

Mr. ALDRICH. The Senator used that language.

Mr. BACON. The Senator will pardon me. Let me make my statement. What I think I substantially said was, that would

be the effect of it; not that de novo the court should fix the rate, but that if the Supreme Court, the court of final resort, had the review of all the features of the action of the Commission, not only including law questions but including everything which would arise out of the exercise of discretion—if they had the whole subject-matter thus brought before them for determination, the effect would be the same as if they fixed the rate.

Mr. FORAKER. Let me answer that question, as the Senator has now modified it; and I hope the Senator will let me proceed.

There is nothing whatever in anything I said, and I did not imagine there was anything in what the Senator asked me, that indicated that I was contending that any court—the Supreme Court or the circuit court—should fix the rate. In the case put by the Senator, if the Commission had fixed a rate which became the subject of judicial review, the only question would be whether or not that particular rate was a just and reasonable rate, and that is simply and purely a judicial question. The court would not substitute another rate in place of that rate.

Mr. ALDRICH. Will the Senator from Ohio allow me to ask a very brief question of the Senator from Georgia?

Mr. FORAKER. Yes; very well.

Mr. ALDRICH. Does the Senator from Georgia think that a court can ascertain whether the constitutional rights of a party have been invaded by an order without an inquiry into the facts as well as the law?

Mr. BACON. That is a pretty broad question. It is an abstract one. In a concrete case the question could be very much more easily answered. Of course there is no case that does not have facts connected with it, and out of the facts arises the law.

Mr. ALDRICH. The Senator was inveighing, as I understood him, against a proposition to allow the courts to investigate the facts, and I could not see any other process by which they could ascertain them.

Mr. BACON. If the Senator will pardon me, I desire to say I was not inveighing against anything. I was trying to get a statement from the Senator from Ohio as to exactly what he meant by the expression "this broad review." As I have suggested, the purpose of my inquiry was to ask him another question predicated upon a reply to that. That was the purpose I had, but as the Senator from Ohio said he preferred to go on, I refrained from asking the other question.

Mr. FORAKER. I do not wish, of course, to be discourteous to the Senator or to cut him off.

Mr. BACON. I do not so consider it at all. I do not understand the Senator to be in any manner discourteous.

Mr. FORAKER. I have no objection at all to yielding at any time to a question. But if the Senator will read the remarks I made on February 28 he will find that I dealt at some length with this subject. I have undertaken to state exactly what was the effect of that which I then said. As the Senator from Rhode Island has so pertinently suggested, no court of review could determine whether or not a given rate was confiscatory in one case or extortionate in another without not only looking through the proceedings of the Commission, but also looking at all the facts and hearing all the testimony that might properly be offered. That would apply, therefore, to a constitutional or restricted review, as it has been called, just as much as it would to the broad review about which I have been commenting.

I was about to say, when the Senator interrupted me, that one criticism that I think we have a just right to insist upon as to this bill is that in the proceeding that it does provide for, where the court reviews any action brought by the Commission to enforce its order, the language of the statute is that the court shall review with a view to determining whether or not the order was regularly made; that is all; not whether it was a lawful order, not whether it was in compliance with the command of the statute, but whether or not the proceeding had been regularly instituted and proceeded with.

How absolutely without value that is as a remedy, Senators will realize when their attention is called to the fact that this proceeding which the courts are to determine the regularity of is by the statute made an irregular proceeding. There are no pleadings to be filed; there is no bill, no answer, no demurrer, no motion, no anything. A shipper may write a letter and make a complaint, and immediately the machinery provided by this bill and the existing law is set into operation. Nobody comes and makes formal answer. They come and answer each according to whatever the suggestion may be that is in his mind that he desires to make. Testimony is taken; and not only is it the duty and practice of the Commission to hear all that may be brought by the parties, but the language of the statute is that the Commission shall proceed in its own way, on its own motion, without a suggestion from anybody, to get any kind of evidence on which it may see fit to predicate an order. A greater cheat and fraud and humbug could not be suggested—I do not want to use offensive language, but I want to use expressive language—than is employed in the review provided for in this bill; in suits to enforce the orders of the Commission the court shall look at nothing except only to see whether or not the order was regularly made, whether an irregular proceeding, commanded by the statute to be such, is a regular proceeding. There is no ground of defense whatever in such a provision.

It is to avoid all such troubles as that that I want the amendment for which I am speaking to be added to this bill. It is not in conflict with any provision of this bill, but it is a remedy in and of itself which the shipper shall have a right to resort to as an alternative remedy.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. Yes.

Mr. TILLMAN. I should like to ask the Senator if it is not possible or probable that the men who drew this bill, in using the words "regularly made," did not have in mind to limit the courts to the question whether or not the Commission, acting as the instrument of Congress, had obeyed the law of Congress in its proceedings, and that there was no purpose to have the court try the case itself and determine whether or not the rate was other than lawful—in other words, whether it had been made according to law?

Mr. FORAKER. Well, Mr. President, the Commission——

Mr. TILLMAN. I am merely asking for the Senator's view on that supposition.

Mr. FORAKER. I take pleasure in giving the Senator the benefit of my view. When I recall that the existing law provides that the court, when called upon to enforce an order of the Commission, is authorized to hear fully and determine whether or not the order was lawfully made; when I recall that the bill framed and sent to the Interstate Commerce Committee of the Senate by the Interstate Commerce Commission provided carefully that the review of the court should be to determine whether the orders of the Commission called in question had been lawfully made; when I remember that this law has been in force all these years, and was the first proposition that was brought before our committee, and that not until the Hepburn bill and the other bills introduced about the same time were brought forth, did anybody hear of such a thing as confining the court to the question whether or not the order had been regularly made—when I recall all that, I think it is very clear what was intended, and that is that the Commission should hear a complaint and, in the irregular way in which the Commission proceeds, should make an order. If the railroad refused to carry it out, then the Commission should bring a suit in the court to enforce its order, and in that proceeding the court could determine not whether the order had been lawfully made—which would be to determine whether or not it had been made in accordance with the command of Congress—but whether or not it had been regularly made—that is to say, whether or not notice had been given to the other party in time, whether or not anybody had been allowed to come before the Commission, whether or not testimony had been heard, whether or not the requirements of the statute in such an irregular proceeding had been complied with. There is not anything about whether it had been made in accordance with the statute under which the Commission was acting.

Mr. CLAPP. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Minnesota?

Mr. FORAKER. Certainly.

Mr. CLAPP. I desire to call the attention of the Senator to this fact: Whatever may be the strength of the legal position of the framers of this bill, the suit to which the Senator from Ohio calls attention has nothing whatever to do with the suit which the carrier institutes to protect his rights under the order of the Commission.

Mr. FORAKER. Mr. President, if the Senator from Minnesota had listened more attentively he would not have interrupted me to say that, because that is exactly what I did say. The bill does not provide for a suit being brought by the carrier. I was speaking of that provision of the bill where the Commission is authorized to bring a suit to enforce its own order.

Mr. CLAPP. Yes; but the Senator was insisting that under the suit the only question that could be raised was the regularity of the order.

Mr. FORAKER. Certainly; and I do still.

Mr. CLAPP. The history of this thing is simply this——

Mr. FORAKER. Can not the Senator give that in his own time?

Mr. CLAPP. That is the trouble. Every time this bill is assailed, when we want a discussion of the bill we are asked to wait until its opponents get through.

Mr. FORAKER. I yield to the Senator. I want the bill to have "a square deal" [laughter], and I want to do all I can to give it one.

Mr. CLAPP. Independent of "a square deal," this debate is doing no good unless it is based upon an analysis of this bill. It will not do simply to stand here and deliver addresses upon questions arising under the pending bill. I am not criticising the Senator from Ohio in saying that, but I am justifying my own course. I think we ought to debate this bill, and, as these questions arise, discuss them so as to see whether we are right or whether we are wrong. If we are wrong, we are as anxious as anybody else to be placed right.

Under the existing law, the order does not as a legal matter go into effect, and the Commission has to bring suit to enforce it. That involving the order itself, of course, under the present law, the carrier can raise these questions. The purpose of this bill is to change that rule and put the order into effect at a given time named in the proposed law or else set by the Commission in its order. This bill as it is now framed contemplates that, before the order goes into effect, the carrier may be heard; in other words, the order goes into effect unless suspended or vacated by a court.

The action provided for on page 16 of the bill, to which the Senator from Ohio calls attention, is a sort of supplementary proceeding, not involving the question of the constitutionality of the order; but after the carrier has had its opportunity to test that question, then the bill provides—

> If any carrier fails or neglects to obey any order of the Commission, other than for the payment of money, while the same is in effect, any party injured thereby, or the Commission in its own name, may apply to the circuit court in the district where such carrier has its principal operating office, or in which the violation or disobedience of such order shall happen, for an enforcement of such order.

That is, after the carrier has had its opportunity to combat the order on the ground that it is an invasion of constitutional rights; and then, in the supplemental proceeding, the carrier has neglected or failed to interpose its objection, and the order has gone into effect; this proceeding is simply to enforce it. There is no occasion, it seems to me, that in that proceeding there should be any question except as to the regularity of the order.

Mr. FORAKER. Mr. President, the indignation of the Senator from Minnesota is rather surprising to me. If he had been in the Chamber during all the time I have been occupying the floor, he would have known that I have already commented on the fact that, in my opinion, the court, under this bill as it is framed, could hear a question where a constitutional right has been infringed, but that, without action on our part, it could not inquire as to the reasonableness of a rate.

Mr. CLAPP. Then, if that be true, why is the Senator attacking the provision on page 16?

Mr. FORAKER. Because it is a fraud, a cheat, and a humbug, and I intend to expose it as such. That is why; and I am not going to do it in essay form, either.

Now, Mr. President, I call attention to the fact that under existing law, when a carrier refuses to obey an order of the Commission, the Commission has authority to go into court and sue the carrier to compel it to obey the order, and the court will determine whether the order was lawfully made.

The provision of existing law is that in such a proceeding as that the inquiry of the court shall be as to whether the order was lawfully made. That means not only a regular proceeding before the Commission, but it means also a rate, if that be the subject-matter of the order, that is in accordance with the command of Congress that it shall be a just and reasonable rate. And the court in such a proceeding will hear everything and determine whether the order was lawfully made.

Mr. CLAPP. Is it not a fact that under existing law that is the first suit? I do not want to be considered——

Mr. FORAKER. I have already commented on that. Under the existing law the Commission has no right to make a rate to be substituted——

Mr. CLAPP. No; but under existing law the suit brought by the Commission is the first suit brought, the first occasion for bringing any suit. Until that suit is brought there is no occasion for applying to a court.

Mr. FORAKER. Does not everybody know that without being told who knows that the law as it stands does not authorize the Commission to make a rate at all? It is only because we are now proposing to change the law and to authorize the Commission to make a rate and compel the carrier to put it into operation, unless he submits to a penalty of $5,000 a day for not doing it, that the other provision about applying for an injunction is incorporated in the bill. I have already commented on that. I do not want to go over it again.

Mr. CLAPP. I do not ask the Senator to go over it again. But I submit, while everybody ought to know that, if a man had listened to the Senator's argument, in which he seeks to draw a parallel between a suit under existing law and a suit provided for in section 16 of this proposed law, the supplemental law, he would draw the conclusion that there was some other provision in existing law.

Mr. FORAKER. I have already argued that all I care to; I think I have said all that I should be required to say on that subject.

There is no provision in this bill authorizing the hearing by the court of any complaint except only that the rate is extortionate on the one hand or confiscatory on the other. As to rates between those, there is no authority for a review by the court at all; and that is what I want to put into the bill, so that the court may make such a review.

Mr. ELKINS. Mr. President——

Mr. FORAKER. Let me finish, and then I will yield. When the carrier refuses to obey an order that the Commission makes, under the law as it is to-day the inquiry is as to whether the order was lawful. Under the law as it will be if this bill is enacted into law the court will have jurisdiction in such suits to inquire not whether the rate is lawful, not whether the Commission has obeyed our instructions and given a just and reasonable and fairly remunerative rate if we adopt the bill in that form, but the inquiry will be whether or not the Commission has proceeded regularly. I do not need to call on anybody to tell me why that was put in. Everybody knows. It was put in there to restrict the power of the court, in so far as it is competent by statute to do it, to inquire as to an invasion of purely constitutional rights of property, and nothing else.

Now, in the bill framed and sent to us by the Interstate Commission they provided that upon this same inquiry the question to be determined by the court shall be not whether the order had been regularly made, but whether the order had been lawfully made. Never until the Hepburn bill and those that came in about the same time did anybody presume to ask the Congress of the United States to limit a court in reviewing the question whether a commission to which, as the Senator from South Carolina [Mr. LATIMER] well said this morning, we are proposing to give the most autocratic power had, in the exercise of those powers, obeyed our command or violated our command. They undertake to do it by inserting the word "regular." There is not any secret as to what was meant by it, but the character of such a proposed amendment of the law does not appear until it is remembered that this inquiry is to be, whether an order was regularly made in a proceeding which under this proposed statute is commanded to be irregular. It could not be anything but regular. You could not violate the statute by any kind of departure from ordinary judicial proceedings in which the Commission might see fit to indulge.

This much I started out to say, but I would like——

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. ELKINS. Will the Senator from Ohio allow me just one question?

Mr. FORAKER. I will; but I should like then to conclude what I have to say.

Mr. ELKINS. I should like to ask the Senator how he construes the words "determine and prescribe what may in its judgment?" If those words remain in the bill, as between a confiscatory rate and an extortionate rate, is not the finding of the Commission final and can not be reviewed?

Mr. FORAKER. Yes. The insertion in this bill of the words "in its opinion"——

Mr. ELKINS. "In its judgment."

Mr. FORAKER. "In its judgment;" that is to say, they shall ascertain in the first place whether or not, in their opinion, a rate that is challenged is unjust and unreasonable; and if so, they shall set it aside and state what in the judgment of the Commission is a just and reasonable rate.

If you get into the court to review this question of regularity, the question will be whether an irregular proceeding has been regular, and whether the opinion in the one case as to the rate set aside and the judgment of the Commission as to the rate substituted are, in fact, the opinion and judgment of the Commission. In other words, there is no review possible, for who can say the rate was not what the opinion of the Commission was it should be? It is a craftily drawn statute, or bill—

I hope it will never be a statute in this form—intended deliberately by lawyers who knew what they were doing to take away from the court all power of review with a view of determining whether a rate in a given case is just and reasonable.

Mr. BACON. Will the Senator pardon an interruption?

Mr. FORAKER. Certainly.

Mr. BACON. I make it for the purpose of getting the Senator's interpretation of certain sections to which I desire to call his attention. On page 11 of the bill there is evidently a contemplation of a resort to the courts on the part of the carrier in case it deems the rate to be confiscatory or otherwise unlawful. That is true, is it not?

Mr. FORAKER. That is what I have already commented on.

Mr. BACON. Very well. The Senator will pardon me a moment. This is only suggestive. The question I wished to ask the Senator is this: The language he complains of on page 16 relates to the case of a carrier who fails to obey the order of the Commission.

Now does not that relate to a case exclusively where the carrier has failed to avail himself of the opportunity to go into court and where he simply stands defiant of the Commission; and is it not the case in which the law seeks to provide that not having challenged the lawfulness, if you please, of the order of the Commission, not having sought by resort to the courts to set aside the order of the Commission, thereby recognizing the finality of the order, the carrier is in disobedience of it? If that be the case, is it not proper that the inquiry should be limited to the question whether the order was regularly made and the carrier duly served?

Mr. FORAKER. The Senator has, I think, failed to perceive the character of the argument I have been making. I have been contending that under the provision to which the Senator calls my attention, where the carrier may apply to the court, it has no authority, because the statute does not give it any, to apply except only where the rate is confiscatory, or, in the case of the shipper, where the rate is extortionate. Now, I am talking about the rates that are intermediate between the two extremes, those that, according to the proposed statute, are to be just and reasonable and fairly remunerative. But we are bound to assume that most of the rates would fall within the latter class. I say the proposed statute gives no opportunity whatever for a review in court of the question of reasonableness. It gives no opportunity to the court to review or to the carrier or the shipper to apply to the court upon that question——

I want the attention of the Senator from Georgia, if the Senator from Kansas will let me have it, for the Senator from Georgia interrupted me, and I am anxious to hurry along without being further interrupted if possible. Therefore, except only as to the invasion of constitutional rights this bill gives no remedy at all. They are the only ones that can be contemplated by the provision to which the Senator has called my attention.

When it comes to the question whether a rate is reasonable in such a case as the other provision relates to, where the carrier has refused to obey and the Commission has brought suit, why should not the court be allowed to examine that question, and see whether the rate prescribed is just and reasonable and fairly remunerative? Does not Congress want the Commission to make just and reasonable and fairly remunerative rates? Could not the court be allowed, if it is going to review it at all, to review that particular question?

But now, Mr. President, that brings me to another phase of this bill that I want to speak about. I did not have it in mind to speak about it in this connection, but I will. What is it that this bill provides? That the Commission shall fix a just and reasonable and fairly remunerative rate.

When I spoke here as long ago as last December I pointed out that that was such an indefinite standard that it was not any standard at all. All that Congress can do, if it has power to make rates at all, is to fix just and reasonable rates. If we confer that power on the Commission, we have divested ourselves of every particle of the rate-making power we have and given it all to the Commission. And yet Senators tell me there is no delegation by this provision of legislative power.

Are these words sufficient to create a standard? I contended that they were not as long ago as the time I have mentioned. I contended that they were not, at considerable length, when I spoke here on February 28. I want to renew that contention—not to argue it over again, but to call attention to a decision rendered by the Supreme Court of the United States since those arguments were made. I refer to the decision of the Supreme Court in the Michigan Tax cases, the opinion being delivered by Mr. Justice Brewer. I have it before me. When I spoke here in December I took the position that if we proposed to authorize the Commission to make rates we had power to do it, if we have power to make rates at all. But I said in doing so we must be careful so to confer the power as to make their duty with respect to rate making purely administrative. In that behalf we must be careful not to confer upon the Commission any exercise of judgment or discretion. If we did, it would be fatal, because if the Congress have power to make just and reasonable rates, it is the judgment of Congress that the people are entitled to and not the judgment of some commission.

Now, I gave some illustrations of what I meant by that. I called attention in that connection to the fact that in Iowa as long ago as when the first "granger law," as it was called, was enacted, back, I think, in 1873 or 1874, this question arose and they met it. They met it in one of the ways in which it must be met, and one of the few ways in which it is possible to meet it. They divided the railroads into classes—Class A, Class B, Class C, Class D—and then they provided that the rates on everything they could think of to alphabetically enumerate, from apples down to watermelons, should be fixed according to a table which they set out in their statute; on freight of a certain kind, which they named, over a road falling within Class A, so much per mile; so much per mile on a certain commodity over a railroad that fell in Class B, Class C, Class D, and so on, respectively. But what was the result, and why did they do that? Why did they go to the trouble to classify roads and to fix the rates with that care? Because they recognized that they could not intrust legislative discretion or judgment to a commission or to any official of the law. They recognized that they must establish a standard to which the commissioner could conform by simply making a mathematical calculation. He could inquire what class the road belonged to, what the particular freight was, how many miles it was to be shipped, and then taking the table he could figure up what the rate was.

They did the same thing, only not so elaborately, in Wisconsin. They classified the roads and fixed the rates, in principle, according to the Iowa statute. They did the same thing, in effect, in Minnesota, but instead of authorizing the commission to make rates they authorized the commission there to make a recommendation as to what the rate ought to be, and if the road did not see fit to adopt the recommendation, which the commission had a right to make, it was the duty of the commission to go into court and get an injunction enjoining the railroad from charging any other rate, or a mandamus compelling it to charge only the rate fixed.

Mr. BACON. Mr. President——

Mr. FORAKER. If the Senator from Georgia will bear with me for just a moment, another way to confer this power and make it administrative in character would be for Congress to say the Commission shall fix rates at so much per ton per mile. In other words, as the Senator from South Carolina [Mr. TILLMAN] the other day said he was coming more and more to believe ought to be the rule, to fix rates on a flat mileage basis. That, I believe, is almost his exact langauge. The Senator from South Carolina nods his assent, and thus we have that established.

Mr. GALLINGER. The Senator from Ohio does not assent to that.

Mr. FORAKER. I do not assent to that. If I were to assent to that and that were to become the law, I do not know what the growers of strawberries in South Carolina would do, or what the peach growers of northern Georgia, who are so ably represented by the Senator from Georgia, would do. They are making a great clamor to me for fear there will be legislation enacted here that will put them at a disadvantage in getting into the market at New York as compared with the peach growers of Delaware.

Only a few days ago—I have already referred to it in the Senate, but I will do it again, as perhaps I have the attention now of some Senators who did not hear me then—I received two letters by the same mail—one from the citrus-fruit growers of southern California, complaining of the Supreme Court because of a decision it recently announced, and claiming that they were subjected to unjust rates, unjust conditions, and the other from a place in Delaware—Medford, I believe it was, or some such name as that; Milford, possibly—complaining that the people in southern California had practically the same rate from California into New York that they have from Milford, Del. A flat mileage basis would make impossible that kind of rate making.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. Certainly.

Mr. TILLMAN. The Senator says he is opposed to the idea of a flat mileage basis.

Mr. FORAKER. Yes.

Mr. TILLMAN. Is not that in accordance with the Declaration of Independence?

Mr. FORAKER. That is going back a long way to fix rates.

Mr. TILLMAN. That is the foundation of this fight, if we are ever going to settle it right, because if the people of Delaware are discriminated against by the local roads and are compelled to pay an equal amount on their peaches to get them to New York that the people of South Carolina are paying—and we do not pay any more than they do, though we are 800 miles away—it is wrong. Now, I say that, and I will stick by it, although I am a peach grower myself in South Carolina.

Mr. FORAKER. I think the peaches will be pretty hard and sour by the time the Senator gets home if we are to make that kind of a law. The greatest achievement of the railway system of this country has been the inauguration of a system of rate making and charging for the transportation of freight that has made every section of this country accessible to every other section.

Mr. GALLINGER. On a commercial basis.

Mr. FORAKER. It is done upon a commercial basis.

The making of rates is very much misunderstood by some people, perhaps possibly by myself, but as I understand it, there is really no such thing as individuals making rates. The laws of trade and commerce make them. The railroads which haul peaches out of South Carolina do not want to charge so little for taking them to New York as will be equal only to a like service rendered for the transportation of peaches from near-by Delaware, but they do it. Why? In order that the people of South Carolina may grow peaches, and that they may have a market for their peaches.

Mr. TILLMAN. Mr. President——

Mr. FORAKER. The Senator will bear with me for a moment. The question all the while is not whether they are charging too little from South Carolina to New York, but whether they are charging too much from Delaware to New York. And if they are not charging too much from Delaware to New York, who is harmed? Not the people in South Carolina, because they have a market that they could not get into except for the low rate; not the people of Delaware, if they are charged only a just and reasonable rate, because the people of South Carolina are permitted to come into that market in competition with them on no better rate than they have, and surely not the consumers in New York who are thus given two sources of supply and the benefit of competition.

Mr. TILLMAN. Now, will the Senator permit me?

Mr. FORAKER. In a minute. I want to make plain that no one can complain. Not the people of South Carolina; not the people of Delaware; not the people in New York, for they have two sources from which to draw their supplies instead of only one. If the people of New York had to rely upon the peach orchards of Delaware alone for their supply, peaches would be worth a good deal more than they are now.

Mr. TILLMAN. Will the Senator permit me?

Mr. FORAKER. Yes.

Mr. TILLMAN. I want to say to the Senator that if he knew a little more about peaches and their growing he would not be arguing like he does for this simple reason: The peach crop in South Carolina begins to move to market the last of June, and it is done and gone, eaten up, before the Delaware peaches are ripe.

I want to say while I am on my feet that the complaint of the citrus-fruit growers of California was against the decision of the Supreme Court, which did not permit the shipper to route his fruit, thereby prolonging the time it is in transit and causing the fruit to rot by four or five days' delay, caused by sending it some roundabout way to suit the railroad which has a monopoly of the business.

Mr. FORAKER. If that be true as to peaches, let the Senator take something else for illustration. I suppose the peaches in South Carolina and the peaches in northern Georgia ripen about the same time.

Mr. TILLMAN. About the same time.

Mr. FORAKER. They go into market in competition with each other, and as they are not equally distant from New York if the peach growers of northern Georgia had to compete on the mileage basis with the peach growers of South Carolina they would be at a disadvantage in the market in New York.

Mr. TILLMAN. You are speaking relatively of conditions as between the peach growers of Georgia and South Carolina and the peach growers of Delaware?

Mr. FORAKER. I was.

Mr. TILLMAN. I am contending that it is unjust and wrong in principle and practice for the railroad to charge the peach growers within 40 or 50 miles of New York as much as they charge us in South Carolina, 900 miles off. I will stand and die by that proposition.

Mr. FORAKER. It is all wrong when it applies to South Carolina and Delaware, but it is all right when it applies to South Carolina and Georgia.

Mr. TILLMAN. They are relatively as far from New York one as the other. There may be 75 miles difference.

Mr. FORAKER. Yes; or 150 or 200 miles, I should think.

Mr. TILLMAN. No.

Mr. FORAKER. Yes.

Mr. TILLMAN. I do not care; say 200 miles.

Mr. FORAKER. I will assume that; but it does not make any difference whether it is 75 miles or 150 miles or 200 miles. It is a great principle I am talking about.

Mr. TILLMAN. I stand by the Declaration of Independence side of it, and you have a new idea of it.

Mr. FORAKER. I have not any new idea. It is new only to the Senator from South Carolina.

Mr. TILLMAN. I heard——

Mr. FORAKER. Let me put another question to the Senator, which is suggested to me by the Senator from West Virginia [Mr. ELKINS]. But I want to answer first about the citrus-fruit growers of California. [To Mr. ELKINS.] Remind me of the cotton later.

The citrus-fruit growers of California brought suit, in which they asserted that they ought to be given the right to route their own fruit; that they ought to have the right to determine over what roads, shipping from California to New York, their fruit should go. The railroads contended that they ought to be allowed to control the routing. The Supreme Court decided upon the facts as well as the law of the case that the roads had that right and should have that right; but what were the facts? Why is it the fruit growers of California are making complaint? In that case it was established without any contradiction, beyond any question whatever, by testimony that was agreed to be correct, that the shippers wanted to control the routing so that they might divert their freight, first to one road and then to another, that they might demand a rebate from them. And one fruit company had exacted in two or three years' time prior to the bringing of that suit a hundred and seventy-five thousand dollars of rebates—the very thing we are trying to break up. If it had not been for the court intervening to set aside the order of the Commission and prohibiting and breaking up that kind of bad practice, it would still be going on.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield further to the Senator from South Carolina?

Mr. FORAKER. Certainly.

Mr. TILLMAN. The Senator's principle is erroneous and wrong again. If the Senator himself were going from here to California, and some ticket agent said, "I am going to ship you via Cincinnati and St. Louis and Denver, and you shall not go any other way," the Senator from Ohio would kick, and kick very hard. He would not be bulldozed in any such manner. The man who has something to ship, and knows that he can get it to market quicker and to his advantage by one road, has a right to ship it over that road.

Mr. FORAKER. The record shows it got to market quicker when the railroad routed it and when no rebate was at stake than when the shipper routed it.

Let us think for a moment about this mileage basis. I am standing here by the side of the Senator from Iowa [Mr. ALLISON]. He represents an agricultural State. They send great quantities of grain of every kind to the seaboard cities; some for consumption there, most of it for export, perhaps.

Now, if they were to be charged according to the mileage basis, what would be the effect upon them? You can better imagine it than describe it. The farmers of Iowa compete in the markets of New York and Boston with the farmers of Vermont and New Hampshire and New York on butter and eggs and cheese and all kinds of dairy products, and they compete because they are able to get practically the same rate. If the farmers of New York and Vermont and New Hampshire are charged too high rates, they have a right to complain. But if their rates are reasonable, and the roads reduce rates to a low standard to enable people who have butter and eggs and milk in Iowa to send their products to the eastern markets and sell them there, it is a great blessing to the whole country. It is a good thing for Iowa. The mileage basis would take away from Iowa all possibility of competing in New York with New Hampshire and Vermont, and lose to that people that market.

Mr. GALLINGER. If the Senator will permit me, it must be a good thing for the consumer.

Mr. FORAKER. Just as I was going to say, as the Senator from New Hampshire has well suggested, it is a good thing for the people of Iowa, and a better thing still for the people of New York and Boston. Those great cities could not draw from near by a sufficient supply to enable them to have butter and eggs and milk and all these products which are brought these long distances under the present system. They could not have

them at reasonable prices, except only under the system we have. They could not have them under the mileage system.

Mr. TILLMAN. Will the Senator permit me?

Mr. FORAKER. I want to ask the Senator from South Carolina about the cotton mills.

Mr. TILLMAN. I will meet the Senator on the cotton-mill basis or any other basis, but I want to ask, Does he imagine that any milk was ever shipped into New York City from Iowa?

Mr. FORAKER. I am told it is.

Mr. TILLMAN. It is condensed milk, then.

Mr. FORAKER. No.

Mr. TILLMAN. That would go——

Mr. FORAKER. Governor Cummins testified before our committee, as I remember it now, to the fact that butter and eggs——

Mr. TILLMAN. Oh!

Mr. FORAKER. And dairy products——

Mr. TILLMAN. Butter and eggs possibly.

Mr. FORAKER. Well, it is possible no milk is shipped that long distance——

Mr. TILLMAN. No milk, Senator.

Mr. FORAKER. Take out the milk, then. I am not trying to establish any one fact, but a great principle.

Mr. TILLMAN. I want the Senator just to look at this aspect of it. The farmer in Vermont, New York, and Connecticut is competing with the farmer in Iowa.

Mr. FORAKER. Certainly he is.

Mr. TILLMAN. What about the manufacturer in New York, Connecticut, and Vermont, who has his goods protected by the tariff and then is allowed to buy in the American market? This is a new idea. It is another protective tariff against the farmer in the near-by States in favor of the farmer in Iowa, is it not?

Mr. FORAKER. The Senator from West Virginia [Mr. ELKINS] was calling my attention just then, and the Senator will pardon me.

Mr. TILLMAN. The Senator from West Virginia will have enough to do to bother me on his own hook without trying to whisper into the ear of the Senator from Ohio.

Mr. FORAKER. He was not addressing himself to what the Senator is just now talking about, and——

Mr. TILLMAN. I was just trying to get the Senator's view.

Mr. FORAKER. Between both I did not hear either.

Mr. TILLMAN. I want the Senator's view on the relative justice of the idea that the farmer in these near-by States around New York City and Boston has to compete with the far-away farmer in Iowa. The railroads give the farmer in Iowa the advantage of low rates relatively as compared with the near-by farmer, while your New York and Massachusetts manufacturer is protected by the tariff against competition from anybody who might come into the field against him.

Mr. FORAKER. No American manufacturer is thus protected against other American manufacturers. All American manufacturers are put on an equality under the law.

Mr. TILLMAN. Of course; and I want the farmers to be on an equality under the law.

Mr. FORAKER. And, Mr. President, no class of people have a higher protective tariff levied on the importation into this country of the products they bring forth than the farmer.

Mr. TILLMAN. Yet the Senator is right here arguing for the protection of the Iowa farmer against the New York farmer——

Mr. FORAKER. No.

Mr. TILLMAN. By a railroad rate discrimination in his favor.

Mr. FORAKER. That is simply one of the mysteries of the tariff the Senator has not yet fully sounded the depths of. The Iowa farmer wants not only to produce butter and eggs, but he wants some place to sell his butter and eggs; and if there was a manufactory flourishing about him, he would have a home market there; and if they do not take all he has to sell, he can ship it off to New York, if he can find some railroad that will carry it at a rate cheap enough to enable him to sell it when he gets there in competition with the same products from near-by points.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. BAILEY. If it be true that the distance is so great that on a mileage basis the people of New York could not be provided with the chickens and eggs from Iowa, to which the Senator refers, would not the necessary result of that be that many of the industries which are now concentrated in New York would be compelled to go nearer to the chickens and eggs in Iowa in order to give their operatives cheaper supplies? And the effect of that would be a wider and a juster distribution of the population and wealth in this country.

Mr. FORAKER. That is a very interesting question, and we will take it up and discuss it when we come to take up the revision of the tariff.

Mr. TILLMAN. This is the tariff.

Mr. FORAKER. It is too broad a subject for me to undertake to deal with in the midst of a speech that is devoted to rate making.

Mr. TILLMAN. But this rate making is in a sense a protective tariff. The Senator has been contending for a protective tariff by the railroads in behalf of the western farmer and against the farmers of New England and New York.

Mr. FORAKER. Mr. President, if the Senator will allow me to use the word politely, I will not allow him to becloud the issue. We are talking about rate making and I have said all the while, in the cases I have been putting for illustration, that the question is, whether the near-by rate was an unjustly high rate.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield further to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. BAILEY. I will simply remind the Senator from Ohio that the suggestion I made was directly in reply to the argument that we had to give these cheap rates in order to get commodities to the centers of population. I myself would like to take the centers of population a little closer to the cheaper commodities.

Mr. FORAKER. If the Senator will journey across the West he will find that the manufacturing industries there are flourishing. He will find that they are springing up in every direction. He will find that they do not follow chickens and eggs and ducks, but they grow up in every community, and wherever they do they constitute a home market where the farmers near by can find a place to sell their products.

Mr. ALDRICH. And they are not going up any more rapidly in any part of the United States than in the States of the Senator from North Carolina and the Senator from South Carolina.

Mr. FORAKER. Everywhere. That reminds me that I wanted to ask a question about cotton.

Mr. TILLMAN. Is it, notwithstanding, the fact that most of our goods are shipped to China in competition with Germany and England and have not a dollar of protective tariff on them, but in the open field, with no favors to anyone?

Mr. FORAKER. Can any man inform me where they have a higher tariff than Germany has?

Mr. TILLMAN. I mean exports. We go to China to sell cloth in competition with Germany and England, and we do not get the benefit of any protective tariff. Therefore we do not get a square deal when our railroad rates are all in the interest of New York, and we can not get any fair play in the fixing of rates.

Mr. FORAKER. No other country gets any such benefit as that to which the Senator refers. But let me tell the Senator what his State is getting great benefit from, and that is from the system of rate making that is now employed. That has been the case especially during the last ten or fifteen or twenty years. Perhaps as recently as twenty years ago the first cotton mills were started in South Carolina, North Carolina, and Georgia, in competition with the cotton mills of New England, and now already those cotton mills have increased in number and in capacity until they are practically equal in number and capacity to the cotton mills of New England. And they have a great advantage over the cotton mills of New England—they are near by where the cotton is grown.

Mr. ALDRICH. Will the Senator allow me to interrupt him?

Mr. FORAKER. Certainly.

Mr. ALDRICH. There are no manufacturers in the United States who get more material benefit from the protective tariff than the cotton manufacturers of South Carolina. They understand it, too. The Senator from South Carolina may not, but the manufacturers do.

Mr. TILLMAN. Possibly they do, and possibly the Senator from Rhode Island could explain how and why this is true.

Mr. ALDRICH. I do not want to interrupt the speech of the Senator from Ohio by an explanation now.

Mr. TILLMAN. For my part I simply gave this illustration of the condition—that the cotton manufacturers of my State, so far from getting any benefit from the protective tariff at home, have to ship their cotton to China to get a market.

Mr. FORAKER. A great many other people have to ship to China to get a market. In our country here at home we consume all our necessities call for—all the cotton from the South as well as every other product that is brought forth in this

country, whether in the South or in the North; and for the surplus which we have we must find markets abroad. They send from South Carolina to China only the surplus. If they can sell their cotton here at home they sell it here at home, in New York, for instance, and other near-by markets. They sell only the surplus abroad. We send only our surplus wheat and corn and other farm products abroad. We consume everything in this land that we can, and we consume almost an incomprehensible amount of the agricultural products that we bring forth only because we have, under the protective tariff, multiplied all kinds of industries, developed our resources, multiplied every kind of business institution, and given employment at good wages to the tens of millions of people who toil.

Mr. TILLMAN. Nevertheless I should like to have the Senator from Ohio or either of the Senators inform me in what way a manufacturer in South Carolina who is shipping his product to China gets any benefit from the protective tariff here.

Mr. FORAKER. I was telling the Senator.

Mr. TILLMAN. The Senator then is very kind.

Mr. FORAKER. He gets the same benefit through the protective tariff that I suggested; but, Mr. President, here is the benefit which the Senator refuses to see.

Mr. TILLMAN. The difference is this——

Mr. FORAKER. He must see it. What is the cotton crop of the South?

Mr. TILLMAN. Last year about ten and a half or ten and three-quarters million bales.

Mr. FORAKER. How much of it was consumed in this country?

Mr. TILLMAN. About 4,000,000 bales.

Mr. FORAKER. Where was it sold? Who used it?

Mr. TILLMAN. Does the Senator mean the cloth? We had to send ours abroad, whereas you sold yours right around here, because it was a finer character than ours. You supply the home market with finer goods, which would be otherwise supplied by Europe if there was no protective tariff.

Mr. FORAKER. In other words, you do not make a desirable product, and therefore you can not sell it to Americans, South or North, and you send it off to the Chinaman or to somebody else who must have cotton, and he takes it from the South because he can not get it from the East.

But, Mr. President, if the Senator did not sell in this country 4,000,000 bales—and he could not if we did not have a protective system that had developed our industries and made a demand for it at home—he would have to sell the whole ten million and a half bales in China and then so glut the China market that he would not get half the price he is getting now.

Mr. ALDRICH. I was about going to remark that if the market were confined to China it would not be open for sixty days.

Mr. FORAKER. Now, there is another question the Senator was talking about, that the rate should be just and reasonable, and the Senator from Texas [Mr. BAILEY] insists that we shall strike out "fairly remunerative" and insert "just compensation." I want somebody to explain that term. The Senator is interested in the cotton mills of northern Georgia, and in North Carolina there are some, and in South Carolina, I believe, a large number.

Mr. OVERMAN. In North Carolina there are more than in any other State in the Union.

Mr. FORAKER. I thought that was true, but I was not sure about it.

Mr. BACON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. FORAKER. Let me ask this question, and then I will yield to the Senator. Cotton is assembled at Memphis. It is a short haul across the country to the cotton mills of the South. I do not know how much it will be worth a bale to haul it across, but just for illustration we will say it is worth $2 a bale. That may be a very ridiculous figure to make; I do not know anything about what the rate should be. But it is a short haul across the country to the cotton mills of the South. It is twice or three times as long a haul from Memphis north by the way of Cincinnati and then northeast to the cotton mills of New England. And yet what is the result on rate making? The result is that unless the cotton mills of New England can get a rate that is substantially the equivalent of the rate the cotton mills of the South get, all the cotton will go to the cotton mills of the South, and the New England mills will have to go out of business. The railroads of the South, therefore, a standard being fixed on a reasonable rate to the cotton mills, conform to that, and they give the same kind of rate to New England, and thereby the New England mills get cotton.

Now, the Senator from Texas has returned. I asked him, in his absence, without observing that he was absent until I had asked it, to define this term, "just compensation;" and I was about to illustrate the difficulty I have in regard to it.

If by just compensation we are to fix a rate that measures the service rendered and we fix that rate for a haul of 400 miles across the country to the cotton mills of the South, what are we to name as a rate for 1,200 miles to the cotton mills of New England? Is it to be three times as much? It is all cotton; it all comes from the same point; it all goes to the mills; and if "just compensation" is to be the term employed, what do we mean by it? I do not ask this in a controversial sense. I ask it to get light on it. I know it is difficult, as the Senator from Texas said the other day, to adopt any term that is sufficiently definite to enable us to conform to it without having difficulty. That is the practical effect of what the Senate said.

Now, to take another case, does it cost the railroad any more, and therefore would the railroad be entitled to any more pay, if we are to measure its charge by the rule of just compensation, to haul a carload of dry goods from New York to Chicago than it would a carload of corn or pumpkins from Chicago back to the city of New York, the same distance, over the same road, and in the same car, probably, the same motive power, the same capital, the same crew who are to be employed? How are we to determine what is just compensation in the one case except only by considering what it costs the railroad company to render the service, and are we to apply that same rule in the other case?

Mr. BAILEY. Does the Senator desire me to interrupt him now with an answer?

Mr. FORAKER. I perhaps should not call on the Senator to do so now. I only wanted to say to the Senator that I am at a loss to know how, if I understand the term "just compensation," we could apply it without absolutely revolutionizing the whole system of rate making in the country. The Senator, as he has employed it, as I remember, has always said, "just compensation for the service rendered."

Mr. BAILEY. Mr. President, we can establish no standard in a matter of this kind—that is, a precise one; that is, we can fix no standard with the precision with which we can weigh or count—but it seemed to me that a standard which was definite enough to protect every private citizen of the United States in his property was definite enough to protect the railroad in its service; and I chose the words "just compensation" more because they had been so repeatedly construed than for any belief that they differ from the words "just and reasonable." Indeed, sir, as I said the day before yesterday, if the law is to stand, it can only stand, in my opinion, because the court will translate the expression "just and reasonable" into the equivalent to a just compensation. I proposed the amendment more for the purpose of eliminating the objectionable words "fairly remunerative" than for any other purpose; but, proposing the change, I thought it desirable that the statute should follow the Constitution.

Now, with the Senator's permission, I want to answer his inquiry whether a haul for 1,200 miles shall be charged three times the price of a haul for 400 miles. Of course it costs the same to load and unload for a 4-mile haul as it does for a 1,200-mile haul; and making that allowance, I say to the Senator without the slightest hesitation, that I believe in a mileage basis. I do not believe the railroads of this country ought to be allowed to make things equal that God Almighty has made unequal. I do not believe they ought to be allowed to put a product from one place to another place as cheap as the people who produce that product within a hundred miles are able to put it there as against competitors for a thousand miles.

I want to add, and then I will not trespass further upon the Senator's time and the Senate's patience, that I believe every community in this land is entitled to the natural advantages of its position; and if it had not been for the advantage in freight rates which has been given to the North and East, the population of this country would have been better distributed, and its wealth would have gone with that distribution.

Mr. FORAKER. Mr. President, the Senator has now defined "just compensation" as I thought he would be compelled to define it if I understood the sense in which he had been employing the term; in other words, it is only another way of reaching a mileage basis on which to fix rates. Let me say that is the vice, for I believe it to be a vice, of all this government rate making that has been indulged in in this country and in every other country on the globe.

Mr. BAILEY. The Senator from Ohio will permit me to say that he connects two entirely independent answers. To say that a man is entitled to a just compensation for his service does not necessarily involve the further proposition that that service shall be measured on a mileage basis. In fact, I

stated to the Senator in the very beginning of the statement, that the cost of loading and unloading was the same whether the shipment was for 4 miles or 4,000 miles. And there are other elements.

I do not pretend to say, and I would not be willing to see any law pretend to say what the elements are, because that is, as the courts said in the Monongahela case, largely a judicial question; but I simply express my own belief that it would be better to have a mileage basis, and thus give every place the natural advantages of its position. But even a mileage basis would not necessarily mean that the price for a given haul between two places of 10 miles should be exactly the same as the price for another given haul between two other places of 10 miles, because circumstances and conditions might make one a just compensation, while another either more or less than that.

Mr. FORAKER. I should have qualified the remark I made by saying the Senator would have to come, if he followed the rule he has announced, to at least approximately a mileage basis. Of course in all these illustrations you eliminate the loading and unloading. It is the haul we are talking about.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from New Hampshire?

Mr. FORAKER. Certainly.

Mr. GALLINGER. I was about to suggest that if the principle of mileage rates is good for ordinary freight, it must be good for express matter as well. Perhaps the Senator from South Carolina and the Senator from Texas believe that we ought to compel our express companies to establish mileage rates. If it is good for that, why is it not good for the United States Government in conveying the mails? A package of second-class matter, for instance, is carried from Austin, Tex., to Boston for the same rate that it is carried from Lowell, Mass., to Boston. Now, is it a wrong that is being perpetrated upon the people? I simply suggest that if we are going to adopt this principle we ought to adopt it all along the line.

Mr. FORAKER. Let me give the Senator from Texas an illustration of each community having the benefit of its natural advantages that are given it by the Creator of the universe.

Only recently, within the last few months, I saw in a newspaper an account of the shipment of some steel rails from Pittsburg to Galveston. What was the character of that shipment? The rails were shipped first to New York and then they were shipped by rail back through Pittsburg to Galveston, and at a lower rate than could be obtained by shipping directly from Pittsburg, and enough lower to make it an inducement to go to New York to start the shipment. Why was it? Because Galveston had as to shipments made from New York an advantage the Almighty had given her that she did not have as to the shipment made from Pittsburg. When the rails were once in New York the shipper had an option to send them by ocean to Galveston or send them by rail to Galveston, and the water transportation, which the good Lord made provision for, was so much cheaper that the manufacturer at Pittsburg, not subject to that kind of competition, could more cheaply ship to New York and from there ship to Galveston.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

Mr. FORAKER. Certainly.

Mr. TILLMAN. The Senator said that the good Lord had something to do with the Galveston rate from New York.

Mr. FORAKER. I will retract that if the Senator objects to it.

Mr. TILLMAN. Then did the devil have anything to do with the shipment there and back to Galveston?

Mr. FORAKER. I think the good Lord made the conditions out of which it grew.

Mr. TILLMAN. I am speaking about the devil having to do with the other thing.

Mr. FORAKER. There is no devil in it; there is nothing mysterious in it; there is nothing but sound business common sense in it. Why is it that the shipper in New York can ship all the way across the continent to San Francisco at a dollar a hundred and will be charged for a shipment to Denver or Salt Lake, only half the distance, twice that much. It is because the shipper at New York can ship by water, and the railroad, if it wants the business at all, must meet water competition—that is, all the traffic will bear, if it is to go by rail.

Mr. TILLMAN. Will the Senator allow me to ask him a question?

Mr. FORAKER. Certainly.

Mr. TILLMAN. I have understood, and I think I have seen it stated, that the pottery manufacturers in England have got such a low rate across the Atlantic and by rail to Chicago that they not only ship across the ocean, but they also ship right through East Liverpool, or some other pottery-manufacturing center in his own State, and they get lower rates from Liverpool right through this place to Chicago than the East Liverpool pottery manufacturers get from East Liverpool to Chicago. I say that is infamous. Now, I will fight on that until I get it straight, if I live long enough.

Mr. FORAKER. Mr. President, I have two remarks to make about that. In the first place, the shipper of pottery from England or Germany to points in the United States has the election between half a dozen different ship lines and half a dozen railroads after he gets into this country, and it is their competition, one with another, that he gets the benefit of, whereas as to East Liverpool—and there is no place in the world that I have more interest in than I have in East Liverpool, and no interest and no industry that I take more pride in than I do the pottery industry at East Liverpool—they have only one road, perhaps—I do not know what the given case may be—but it is competition that does it. It is not the rate maker. The man who fixes the rate for the carrier does not want to make a rate lower than is reasonable, but he wants to make it low enough to get the business. They make the very lowest rate they can afford.

The second thing I want to say is that I tried to get another amendment in this bill in the Interstate Commerce Committee that would at least have partially covered that very thing, but I could not get the support of the Senator from Iowa [Mr. DOLLIVER]. I suppose he did not think it was efficient, but I thought it was.

Mr. DOLLIVER. I understand the Senator from Ohio to regret that he did not have my support for an amendment he offered in committee.

Mr. FORAKER. I did not know the Senator from Iowa was in the Chamber, but I will say that I do not think I had his active support on that. I intended to refer to the Senator from South Carolina.

Mr. DOLLIVER. Mr. President, I do not remember that the proposition of the Senator from Ohio ever came to a decision in the committee. My only opinion formed and expressed upon it was that in undertaking to settle the problem of the American merchant marine he was overburdening a somewhat heavy subject by the addition of a matter that would create more controversy than railroad rate legislation.

Mr. GALLINGER. Mr. President——

Mr. FORAKER. I hope the two Senators will allow me to state what I was about to state.

Mr. TILLMAN. Will the Senator allow me to comment on that last statement before he goes to a second one?

Mr. FORAKER. Certainly; I will do anything to oblige the Senator from South Carolina.

Mr. TILLMAN. I want to ask the Senator if he did not think it was wrong that the manufacturers of pottery in East Liverpool, who are endeavoring to compete with England, should have their necks broken or their profits destroyed, and the protective traiff—which he and his colleagues have been so industriously manufacturing or creating for, lo, these many years, to protect American industries—I want to know if it is right for the railroads to annul the protective tariff in the interest of American industry in order that the railroads may discriminate between Americans?

Mr. FORAKER. Mr. President, there is a good deal that I assent to in what the Senator has said, and a good deal that I do not assent to. The protective tariff was not responsible at all for the rates that were given in the cases mentioned by the Senator.

Mr. TILLMAN. But it is responsible for the growing up of the pottery industry at East Liverpool.

Mr. FORAKER. Yes; the protective tariff is responsible for that.

Mr. TILLMAN. Do you want to break up the protective tariff and destroy its benefits to the American manufacturers there, drive them out of business, and have their industry destroyed by the unjust discriminations against them by these railroads?

Mr. FORAKER. Well, Mr. President, if the Senator would go to East Liverpool, he would not see anybody being driven out of business.

Mr. TILLMAN. Well, they have been squealing because their profits are less. That they are squealing is very certain.

Mr. FORAKER. If the Senator had been in East Liverpool during the last Cleveland Administration he would have seen people out of business—thousands of them.

Mr. GALLINGER. And heard them "squealing," too.

Mr. FORAKER. Yes; and the Senator would have heard them squealing, too—squealing loud and long. But now nobody is out of business there. I think, however, the producers

of pottery at East Liverpool are subjected to a disadvantage that I would be glad to relieve them from. When we were proposing to legislate about interstate commerce, having the same power to legislate about foreign commerce that we have to legislate about interstate commerce, it was my idea that we might save for American ships all this freight brought into this country and transported into the interior by reason of this competition at lower rates than are charged on shipments from ports of entry to some of the interior points, and that those lower through rates should not be allowed unless those goods were carried in ships of American registry.

I do not think I was loading anything on here that was not proper. I do not think I was loading anything on here that we should not put on here. It is a simple proposition. The testimony shows, the statistics show, that many million dollars' worth of property is brought into this country through ports of entry and shipped to interior points on rates that are less than the rates are on the same goods from New York or Boston, or whichever port they may be imported into, to some interior point; and to that extent there is an overcoming of the protective tariff. I would be glad to give the American merchant marine an unqualified right to carry those millions of value, for it reaches to millions in the aggregate. The only thing, Mr. President, that cripples the American merchant marine is the want of business. If we could get freights for American ships, we would have again as grand and splendid a merchant marine as we had in the early days of the Republic; and here we have a chance——

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. In a moment.

Here we have a chance to give to American ships some freight, to give them some business, and thereby cut off this competition that reduces these through rates. If we could give them only that which comes through the ports with these lower through rates, as we could by just adopting the ten or twenty lines that I presented to the committee, we would give our ships enough business to put them on their feet again.

I now yield to the Senator from South Carolina.

Mr. TILLMAN. I want to ask the Senator if it is not a self-evident proposition that the local traffic is made to bear the burden of these transcontinental and transatlantic shipments, and that the local industries, the consumers, and everybody else concerned are taxed to support it; and whether or not that would not be remedied by putting into this bill such legislation in regard to the long and short haul as would prohibit and prevent any carrier from hauling any goods from the terminals right by the doors of somebody else in the middle of the line, and charging less for that than they charge this man in the middle for hauling either way?

Mr. FORAKER. Mr. President, I can not answer the Senator in a word, but I can conclusively answer him, I think, in a very few sentences. All the carrier can charge to carry freight from New York to San Francisco is a dollar. It is that exact figure, I believe, on first-class freight. Why? Because if the railroads charge any more the traffic will be sent by water, as the water rate is so much cheaper, and the railroad traffic must take it at a dollar or else not take it at all. Inasmuch as the railroad is in operation, has its cars, has its crews, has its entire equipment, is in business, and is going there anyway, it had better take the freight at a dollar, which may be enough to pay expenses and keep its men employed and possibly yield a very slight profit. It must take it at an unreasonably low figure or else not take the business at all; and, taking it at that, and getting employment enough to pay the men whom they must keep anyhow, and make, possibly, some slight profit, just that much is contributed to the whole sum to be earned that would not otherwise have been contributed, and to that extent the people at intermediate points are relieved.

That all goes toward lowering the rates to intermediate points. The question is not whether the rate to San Francisco is too low—for no rate is too low—but whether the rates to intermediate points are too high; but if it be only a reasonable and just rate under all the circumstances, then the railroad ought to be allowed to charge it.

Mr. TILLMAN. But does not the Senator see that all this intermediate traffic is compelled to bear the burden for the benefit of the extremities?

Mr. FORAKER. Why, Mr. President, there is no burden, unless the haul to the farther point is at a loss. We assume all the while that they are not hauling at any loss. It is better to haul at a slight profit or even for operating expenses than not to haul at all.

Mr. TILLMAN. Why does the Senator want the people and the industries in the interior to bear the burden of this great transcontinental haul? Why not make the fellow quit hauling if he can not haul at a profit?

Mr. FORAKER. Somebody must bear the burden; and those people who are at the terminal points, where they have the advantage of water transportation, get a low rate, and those who are at intermediate points and who can not have that advantage are subject simply to the disadvantages which the Almighty in creating this world imposed.

Mr. TILLMAN. But the Senator was arguing against Galveston and localities on the Atlantic and on the Gulf getting the benefit the Almighty gave them, saying that the railroads were justified in shipping from Pittsburg to New York and then to Galveston——

Mr. FORAKER. I was not inveighing against Galveston getting the benefit of her natural conditions. I was speaking in favor of it. I was calling attention to the fact that she has natural advantages, and that she was getting the benefit of them. Now, let me give another illustration.

Mr. TILLMAN. Wait a minute. I want to call the Senator's attention as to the justice of making the people in the interior pay for this luxury of shipping to New York and then back to Pittsburg.

Mr. FORAKER. I deny, except in some case where there is an abuse in fixing the rate, that there is any such burden unjustly imposed. The question, as I have already remarked, is whether or not the people at the intermediate points are required to pay unjust or unreasonable rates. If it be only a fair rate—and I think it is generally conceded that most of the rates that are complained of are in and of themselves just and reasonable, and unjust and unreasonable—only in relation to the longer haul—if it be of that character, then nothing is imposed upon them, unless the long haul is at a loss to the carrier, and it ought never to haul at a loss, and I do not suppose it does.

Mr. ALDRICH. Mr. President, I sought to interrupt the Senator some time since to express dissent from what I understood to be his position in regard to the significance to him of the words "just and reasonable compensation," or "just compensation for services rendered." It seems to me very clear that the Commission, in determining whether a rate is just and reasonable or affords just compensation—I understood that to be the contention of the Senator from Texas [Mr. BAILEY]—must take into consideration all the circumstances and conditions of each case, all the elements which go to making up the rates by the railroad companies themselves. The conditions, the distance, and every other condition and circumstance must be taken into consideration.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. ALDRICH. When I have finished the sentence.

A just and reasonable rate, or a rate which affords just compensation for the services rendered, under this bill does not necessarily mean a rate controlled, or largely controlled, by distance alone, but that competition and every other condition and circumstance must be considered in connection with it. A rate of four-tenths of a cent per ton per mile might be a just and reasonable rate under one set of circumstances and conditions, while 2 cents per ton per mile would be a just and reasonable rate under other conditions. Otherwise the enactment of this legislation would be intolerable for nine-tenths of the people of this country.

Mr. TILLMAN. I want to ask the Senator a question.

Mr. ALDRICH. I want to state what seems to me to be the construction which must be put upon this bill.

Mr. FORAKER. I was seeking to get a construction of the language from the Senator who suggested it—the Senator from Texas [Mr. BAILEY].

Mr. ALDRICH. I understand the Senator from Texas to assent to that proposition.

Mr. FORAKER. If the Senator had said "just compensation under all the circumstances" it would have been very different.

Mr. ALDRICH. It seems to me it could not mean anything else.

Mr. FORAKER. But those words are not employed.

Mr. BAILEY. Will the Senator from Ohio permit me to ask him a question?

Mr. FORAKER. Certainly.

Mr. BAILEY. Can the Senator find a constitution in this Union which says that when private property is taken for public use "just compensation under all the circumstances" shall be paid?

Mr. FORAKER. No constitution says that, of course.

Mr. BAILEY. Then why should such language have been incorporated in this bill?

I say to the Senator again, as I have said until it is a little tiresome to repeat it, that I am trying to apply to the railroads, when we come to employ their services, precisely the same test

that they apply to us when they come to take our property. When a railroad reaches the Senator's property and seeks to condemn it for the purpose of constructing its line, whether under the law of Ohio or under the law of Congress, it must pay him a just compensation. That is the very language of the constitution of the Senator's State, and that is the language of the Constitution of the Republic. I simply say that when the Senator from Ohio, whether under the law of his State or under the law of the General Government, seeks to condemn the services of the railroad he ought to apply to it exactly the same standard that it has applied to him.

Mr. FORAKER. Mr. President, I quite agree with the Senator as to what is found in the Constitution of the Federal Government and of Ohio; and I quite agree that when it comes to taking my property for a public use it is a judicial proceeding in which it is sought to arrive at the true value of it and to take it at its true value. That is where the trouble to me comes in the employment of this term. They do not hear anything except only what is the property worth, though, of course, they consider all its surroundings in arriving at that. When the Senator says to a railroad, "I have a carload of silk, and I want you to haul it for me from New York to Chicago;" and the railroad says, "Very well; I will take it at a just compensation," what is the measure of the just compensation? It is the service rendered. It is not that the carload of silk is worth twice as much to the Senator after he gets it to Chicago as it is before he ships it out of New York. That can not be taken into consideration any more than could the question that my property would be worth more to him after he would condemn it and pay me for it than it was while I owned it.

Mr. BAILEY. Mr. President——

Mr. FORAKER. I hope the Senator will bear with me just a moment. What would it be worth, therefore? The Senator talks about just compensation for the service rendered. What is it worth to haul it? What some other road will haul it for, or how much capital is invested, or how many men will have to be employed, or how much motive power will be required? All those things enter into consideration if you arrive at what is a just compensation for the service rendered.

Mr. BAILEY. Mr. President——

Mr. FORAKER. In a moment the Senator can answer. When the Senator gets to Chicago he wants to haul something back—or I do, for I am the carrier, I believe, and he is the shipper—I want to haul something back, but I can not get anything but pumpkins, possibly, or corn. I fill the car with them because somebody offers them, and we come to fixing a rate. What should the rate be? The service is precisely the same. It requires exactly the same length of time to make the haul, exactly the same number of men to constitute the crew, and the same motive power. It is the same service all the way through. What is the rule? That is what I want to get at. I am not trying to have a controversy with the Senator. I am trying to get some explanation of what is meant by a just compensation for services rendered that I can apply. I know what it means when you take a right of way through a man's farm. We all know that.

Then I want the Senator to answer another question. If this is to be——

Mr. BAILEY. I hope the Senator will allow me to answer the question he has already put before he asks me another.

Mr. FORAKER. If he likens this procedure to taking a man's private property, such as a right of way through his farm, for the public use, and that is a judicial proceeding, what is this? If it is the same, is it not a judicial proceeding, too?

I noticed the language of the Senator a moment ago. He said that in the Monongahela case the Supreme Court of the United States held that the taking of private property for public use, as was done in that case, was practically—I believe that was the word he employed—a judicial proceeding, or virtually a judicial proceeding. The court held that it was actually a judicial proceeding—a judicial proceeding pure and simple.

Mr. BAILEY. No; they did not. They never held that in any court in the history of the world. They held the ascertainment of what just compensation was to be a judicial question; but the right to take it is not judicial.

Mr. FORAKER. That is what I am talking about—the fixing of the price. The court held there, in so many words, that the fixing of a price was a judicial proceeding; that Congress had no right to fix the price, and Congress had no right to eliminate any element of value. Congress had undertaken to eliminate the value of the franchise, and said it should not be considered.

Mr. BAILEY. Now will the Senator allow me to answer?

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Certainly.

Mr. BAILEY. It is somewhat surprising that a Senator with as wide an experience as the Senator from Ohio should suggest an argument on this subject that ignores the right of classification. Surely the Senator from Ohio does not suppose that any advocate of this bill would destroy the practice of classifying freight. The Senator overlooks the fact that if the railroad in carrying a carload of silk from New York to Chicago, should suffer an accident by which that carload of silk might be destroyed, it would be compelled to respond in damages fifty times as great as if it lost a carload of pumpkins. That is another consideration that makes it entirely proper that the railroad should charge more to carry the valuable cargo that increases its liability than the less valuable cargo, where, in case of accident, the loss would be merely a nominal one.

But, Mr. President, I want to ask the Senator this question: Does he deny that the same perplexing difficulties exist under a law which requires you to fix "a just and reasonable rate" that exist under a law that requires you to fix a rate which affords "a just compensation?" I confess that the practical difficulty is not a small one, though I think it not an insurmountable one; but every argument against employing the expression "a just compensation" can be made with equal force and effect against fixing "a just and reasonable rate."

Now, I want to ask the Senator a question, and upon the answer to that this whole matter can conclude. Does the Senator think that the fifth amendment to the Constitution limits the power of Congress to regulate these charges?

Mr. FORAKER. I do not think we would have any right to violate any provision of the Constitution.

Mr. BAILEY. Then, of course, Congress must regulate commerce under all the limitations of the Constitution. The Senator has argued that we can not regulate it in a way to deprive the carrier of its property without due process of law. The Senator agrees to that, and so do I. The Senator, then, must agree that no more can we so regulate it as to deprive the carrier of its property without just compensation. Therefore if we legislate under the limitations of the fifth amendment—and I think it is generally agreed that we do—then, sir, unless "a just and reasonable rate" is a rate that affords a just compensation, your law is unconstitutional and void.

So, it seems to me that, as we are legislating under the limitations of the fifth amendment, it would be a good practice to make the statute follow the Constitution. That was the only purpose I had. I want to say to the Senator from Ohio now, if the words "fairly remunerative," which, as I think, erect a false standard, be stricken out, I am perfectly willing to yield the words "a just compensation" and adopt the words "a just and reasonable rate." They mean the same thing; and grown men ought not to wrangle as to whether the same thing will be expressed in one way or the other, when either way can be fairly understood by men of common intelligence.

Mr. FORAKER. I have said repeatedly that I have not been calling upon the Senator to accommodate me with the definition of this term with a view to having any wrangle about it I have been trying to find out what was in his mind as to the meaning of it, explaining in that connection the difficulty I have had in applying it. Now, I understand what the Senator means, and that brings me to the point I want to make in this case.

I understand him to mean that it shall be just compensation in view of the character of the commodity hauled and in view of all the circumstances; in other words, "just compensation" would mean the same thing as "just and reasonable," I presume. I thought, perhaps, that was what was in the mind of the Senator. I thought, on the other hand, it might be in the mind of the Senator that the charge should be just the same for the haul whether it was one kind of a commodity or another, and that the charge should be more in proportion for a long haul, omitting, of course, the expense of loading and unloading, than for a short haul.

Mr. BAILEY. Will the Senator permit me to ask him a question there?

Mr. FORAKER. I will.

Mr. BAILEY. Does he think that a freight payment which would be a just compensation for a carload, to use his own illustration, of pumpkins from Chicago to New York would be a just compensation for a carload of silk from New York to Chicago?

Mr. FORAKER. No, sir; that is the very point I was proposing to make with respect to what the Senator said, and that is the very point that all rate makers in this country under the system now in vogue have always made with respect to the making of rates. They take into consideration when they have a carload of silk, that it is more valuable than a carload of something else, and that, if there should be a loss, there would be a greater liability.

But that brings me to the point of this whole thing. I knew the Senator would probably have to go to the mileage basis or the other plan, and when it comes to a mileage basis it would be ruin, in my judgment, to the business of this country. I do not believe 5 per cent of the shippers of the country would want us to pass this bill if they thought it meant a mileage basis.

Now, however, we have this explanation, whether it be "just compensation" or "just and reasonable" the Commission is to determine the rate. There is no standard by which it is to be determined. What is the standard to be? If the Commission is to say when it is silk, not pumpkins, not corn, not wheat, not rye, not oats, not barley, not potatoes, we have got to fix a different rate, a rate that will be in some proportion to the value of the commodity hauled and to the value added for the shipper by reason of the haul, just as they do now. What is that but discretion?

Who is going to fix that standard? That is a matter of judgment. The Senator very forcibly put that to the Senate when in his speech of a few days ago he said that was something a court was not qualified to determine; that we wanted trained men for it, men who by long service as Interstate Commerce Commissioners would come to know how to make rates better than any court could know. Why would not the court do as well? Because, Mr. President, as the Senator said, we are not establishing any standard to which the ordinary mind can conform without the exercise of judgment. There is no taking of a pencil in hand to make a mathematical calculation. It is a matter of judgment. I charge so much for hauling potatoes from A to B. Now I am asked to haul silk. How much more shall I charge? What is that but a matter of judgment? What is that but a matter of opinion? What is that but a matter of discretion; and what is the judgment or opinion or discretion involved except only legislative discretion?

That brings me to refer again to the decision in the Michigan tax case. There has been a good deal of talk about that decision; and I want to do my duty as a Senator by putting my views of this decision before the Senate. Pass this bill as it is to-day and it will perish absolutely in the first court in which it comes under review, because, if it be established, as I will concede it may be, for the sake of the argument here and now, that the power of Congress is broad enough for Congress to fix rates, and that Congress can confer this power in an administrative way on a commission, the way in which we do it must avoid this exercise of judgment and discretion or we delegate legislative power, and the law is not worth the paper on which it is written in consequence of that.

This was a case where a law had been passed in the State of Michigan to assess for purposes of taxation the value of the railroads in that State. Prior to 1902 the railroads had been taxed in that State, as I understand from the decision, a percentage of their gross earnings. In 1902 a law was passed creating a State board of assessors for the valuation of railroad property for purposes of taxation. That law prescribed that the board of assessors should fix as the value of the railroad property the average rate for taxation of the property throughout the State. In that way they found the rate, found the value, found everything that was necessary to the taxation of railroads under that law.

The contention of the railroads was, among others, that the law delegated legislative power. But the Supreme Court upheld the law as against the contention that it delegated legislative power because, as the Supreme Court said, it left nothing for the board of assessors to do except only to make a mathematical calculation, and therefore there was no delegation of legislative discretion or judgment. A standard was given, just as a standard was given in the granger law of Iowa, or the law in Wisconsin, or in other of the statutes to which I have referred. This board of assessors sat down not to say how much, in their opinion, this road shall be taxed, or that road, but to ascertain from the official figures laid before them what the average was, and that was the rate.

Mr. DOLLIVER. If it will not trouble the Senator, I would like to inquire what the standard was; whether it was not a standard determinable only by the exercise of judgment and discretion of the innumerable taxing boards scattered all over Michigan?

Mr. FORAKER. No, Mr. President. The Supreme Court say that the innumerable taxing boards scattered all over Michigan—some thirteen hundred of them altogether—did their work without regard to this law. It was the form in which property was valued for taxation, and they taxed one value in one county and a different value in another, but the court said this State law has nothing whatever to do with that. This State law takes the result of all these innumerable boards. It figures out what the average is, and that it is commanded to apply to the railroads—a purely administrative duty.

Now, let me read what the court said:

> Whatever, in view of the distinct grant in the Federal Constitution to the President, Congress, and the judiciary of separately the executive, legislative, and judicial powers of the nation, may be the power of Congress in the delegation of legislative functions, a very different question is presented when the restrictions of the Federal Constitution are invoked to restrain like action in a State.

I pass over a paragraph that does not bear directly on this, and will read:

> But it is unnecessary to enter into a discussion of this question, for in the case at bar there is no abandonment by the legislature of its functions in respect to taxation. The statute prescribes as the rate of taxation upon railroad property the average rate of taxation on all other property subject to ad valorem taxes. It provides the most direct way for ascertaining such average rate, deducing it from a consideration of all the other rates. No authority is given to the local assessors to apply their judgment to the question of the railroad rate.

I call attention to that sentence as answering completely the Senator from Iowa.

> Their authority in respect to the matter of taxation is precisely the same as it was before and independently of this statute. Their duty is to act according to their judgment in respect to local taxes committed to their charge. When they have finished their action, taken, as it must be assumed to have been, in conscientious discharge of the duties assigned, from it—

Now, note this language—

> from it by a simple mathematical calculation the average rate of taxation is determined. If the legislature should be convened after they have finished their action and then prescribe the average rate thus mathematically deduced as the rate of railroad taxation, no question could be made of its validity. It would be obviously a legislative determination of the rate of taxation. Is it any the less a legislative determination that it assumes that the various local officials will discharge their duties honestly and fairly, with reference to local necessities and independently of the effect upon the railroad rate, and directs that the mathematical computation be made by a board of ministerial officers, and thus made shall become the railroad rate of taxation? Why is it necessary that the legislature be convened to add its formal approval of the integrity of the action of the local officers? May it not intrust the mathematical computation to the State board of assessors; and if so, may it not likewise act upon the assumption that the local assessors will discharge their duties with an eye single to those duties and irrespective of the effect upon the railroad rate?

I have read all I care to, for I have read enough to show that that act was sustained in the language of the Supreme Court, because it conferred upon the board of assessors of the State of Michigan no legislative discretion, no judgment; no right to be exercised of discretion or judgment. It gave to them a duty purely administrative in character, because it involved nothing more than making a mathematical calculation deduced from figures as to its result, that were placed before them in an official form under the statute of the State.

Mr. BACON. I am glad the Senator from Ohio has returned to that feature of his argument. I desired to ask him a question upon it when he was speaking on it before, but he passed from that branch, and I therefore desisted. I recall, of course, as we all do, the very interesting speech made by the Senator upon a former occasion, when he discussed this question and read a number of authorities, among others, the Iowa case, and the question I desire to ask the Senator is this, as he reverts to that discussion: Does the Senator now present this argument with the same purpose that he had when he made the former speech—to demonstrate the fact that it is practically beyond the power of Congress to enact a rate law which shall be free from the constitutional objections to which he now calls our attention?

Mr. FORAKER. No.

Mr. BACON. Or has the discussion which has intervened brought the Senator to the conclusion simply that this particular bill would be unconstitutional and that there is possibly a delegation of power which would not be open to constitutional objections in the particular which he has mentioned? In other words——

Mr. FORAKER. I understand the Senator.

Mr. BACON. I hope the Senator will pardon me, as I have not trespassed upon him at any great length. In other words, does the Senator still adhere to his original proposition that this constitutional objection is one which must necessarily be fatal to this class of legislation? Is the Senator, in the criticism which he makes of this particular bill, prepared to say whether, in his judgment, outside of a flat mileage-rate basis which he has discussed, there is any form of delegation that can be devised which would be free from the objection he now suggests to the extent that in the delegation the Congress would exhaust its legitimate function in the exercise of all which involves discretion and judgment and limit the Commission to that which is simply administrative in its character?

Mr. FORAKER. The Senator asks me if I still adhere as though he saw evidences of some kind of a departure from something I have advocated heretofore.

Mr. BACON. The Senator misunderstood that.

Mr. FORAKER. All right. Like another gentleman of whom we hear frequently, I have not changed my mind.

Mr. BACON. The Senator misunderstood the question which I propounded. I did not intend to convey any such intimation.

Mr. FORAKER. I said, speaking last December, that conceding that Congress had the power to make rates, it could delegate that power to a commission, but it could delegate it only in an administrative way. That is what I am contending for now. I gave some illustrations of what I meant by that. It could say, in delegating that power, that the Commission should fix rates according to the mileage basis. That would be an administrative duty. They could do it by classifying the roads as Iowa and Wisconsin did. That would be administrative. I have not found any way by which we can delegate that power and make it administrative except only one or the other of those two ways, and I am opposed to both of them because I think they are both ruinous and impracticable, unless we are going to revolutionize our way of doing railroad business.

Mr. President, what I am contending for is precisely what I contended for when I first spoke here in December, when I spoke again later in December, and every time I have addressed the Senate on the subject, and I refer to it now only because this decision, having been rendered only a few days ago, gives me another authority to support the proposition I have been contending for all the while.

I want to say to the Senator that if you want a law that will stand the test of the courts and that will remedy the evils, we must overcome the difficulty presented by this and other like decisions.

Mr. BACON. The Senator will pardon me for a moment. I want to say to him that the purpose I had in making the inquiry of him was twofold. I desired to know whether the Senator was still of the opinion that it is impracticable for us to frame a law which would be operative and which would not be open to constitutional objection; and, in the second place, if the Senator, who has given very great attention to this matter, and who has offered a number of amendments, or several, could assist those of us who desire to frame a law by suggesting phraseology which will make the proposed law operative, in his opinion, and free from the constitutional objections to which he has referred.

Mr. FORAKER. I have already said to the Senator, as I have said heretofore in the Senate, that I do not know of any way except two ways, which I have indicated for the purpose of illustration, to fix a definite standard that will result in the Commission having only an administrative duty to perform. It is because I do not know of any way except one or the other of those two, and both, in my judgment, are ruinous, that I want to find another way that will save us from this dangerous experiment of governmental rate making that I have undertaken to provide in this bill——

Mr. ALDRICH. There is another way, but I imagine it is hardly practicable in this country, and that is to adopt the English system, and have a commission recommend a definite schedule of rates.

Mr. FORAKER. Oh, certainly, or do as is done in some of our States, where the commission makes prima facie rates, and they may go into court. But that would not meet the demand upon us. I am talking about a bill that gives the Commission power to substitute a rate and put it in operation. I know of no way except according to the standard "just and reasonable," and that I contend is an indefinite standard, which will not answer the requirements of the Constitution.

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Nevada?

Mr. FORAKER. Certainly.

Mr. NEWLANDS. I should like to ask the Senator from Ohio whether he thinks it would provide a sufficient standard for the Commission if we should provide in the bill that the Commission should first have made a valuation of the roads, and that the rates should be so adjusted as to yield a fixed return of a certain percentage upon that valuation?

Mr. FORAKER. I think it would. I think the Senator from Nevada has suggested a way that might be definite enough as establishing a standard.

Mr. DOLLIVER. If it will not trouble the Senator from Ohio, who has suggested three ways in which it can be done, I should like to read three lines from a decision of Judge Brewer, who was the author of the decision in the Michigan case to which the Senator has referred. I read from the case of the Chicago and Northwestern Railway Company *v.* Dey, reported in 35 Federal Reporter.

Mr. FORAKER. What State?

Mr. DOLLIVER (reading)—

> The vital question with both shipper and carrier is that the rates shall be just and reasonable, and not by what body they shall be put in force. Third. While, in a general sense, following the language of the Supreme Court, it must be conceded that the power to fix rates is legislative, yet the line of demarkation between legislative and administrative functions is not always easily discerned. The one runs into the other. The law books are full of statutes unquestionably valid, in which the legislature has been content to simply establish rules and principles, leaving execution and details to other officers. Here it has declared that rates shall be reasonable and just and committed what is, partially at least, the mere administration of that law to the railroad commissioners.

He then adds:

> While, of course, the cases are not exactly parallel—

Referring to the fixing of rates by the standard referred to by the Senator from Nevada—

> yet the illustration suggests how closely administrative functions press upon legislative power and enforces the conviction that that which partakes so largely of mere administration should not hastily be declared an unconstitutional delegation of legislative power.

Mr. FORAKER. In the first place, I would rather have the decision of Mr. Justice Brewer delivered from the bench of the Supreme Court of the United States last Monday a week than the decision of Mr. Justice Brewer delivered on the circuit when he was a circuit judge. There has been a good deal of progress made in the investigation of this subject, and it may be that the language employed by Mr. Justice Brewer read by the Senator from Iowa, was not directed to the decision of the question which we are now considering. I do not understand that it is. I do not know under the statute of what State the case arose. Will the Senator tell me?

Mr. DOLLIVER. It arose in the Iowa district. It is the case of the Chicago and Northwestern Railway *v.* Dey, decided January 27, 1888. I refer to it simply because it is in line with other decisions and was rendered by Mr. Justice Brewer then sitting in the circuit court, although he was, I think, on the Supreme bench.

Mr. FORAKER. Does the Senator find anything in that case which indicates that Mr. Justice Brewer was passing on the question whether the duty conferred on the Commission was administrative or legislative? Yes; he will say he does. How did Mr. Justice Brewer dispose of it? As the Senator has read to us, by saying that it is difficult to tell sometimes an administrative duty from a legislative duty. That is true. But Mr. Justice Brewer later, after going on the bench of the Supreme Court, in the Maximum Rate case (reported in 167 U. S.), said that the making of a rate was legislative and not administrative. So by that time he had reached a point where he was able to say without any qualification that making what was under the statute to be a just and reasonable rate was a legislative act.

Mr. RAYNER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Maryland?

Mr. FORAKER. Certainly.

Mr. RAYNER. I should like to know from the Senator from Ohio whether Justice Brewer did not change his opinion in that case and whether every word in the original opinion that he delivered referring to the necessity of Congress laying down a rule was not eliminated from the opinion from which the Senator has read?

Mr. FORAKER. No.

Mr. RAYNER. I read the proof sheets of the original opinion and I have read the opinion the Senator has read from, and every word that Justice Brewer said with reference to Congress laying down a rule by which the Commission should be governed is eliminated in the modified opinion. But it did appear in the proof sheets of the original opinion, as I read them in the Supreme Court. I should like to know from the Senator from Ohio whether or not that is a correct statement.

Mr. FORAKER. There got into the newspapers—I do not know how—the original draft of the opinion of Mr. Justice Brewer in the Michigan Tax cases, as prepared by him, and as it was printed at his request before it had been submitted to his colleagues for their concurrence. When they concurred, for some reason they did strike out from that opinion some things that were in it as originally prepared by Mr. Justice Brewer, which was published in the papers, and which I have before me.

Mr. RAYNER. Did not the court strike out, in the modified opinion, the statement that Congress must lay down rules to govern the subordinate tribunal—in those very words? I looked at the proof sheets of the original opinion, and not a newspaper account of it. It shows that the court had undergone a change with reference to the proposition the Senator is arguing, that we must lay down a mathematical rule to govern the Commission.

Mr. FORAKER. I did not care to read, and for reasons the Senator will appreciate I do not care to discuss, what appeared

in the newspapers and was not part of the opinion as delivered from the bench.

I do not know that the exact words the Senator from Maryland employs were in this original draft, and therefore I can not say just what was stricken out. I only know that as it originally stood it seemed to me to be an absolute foreclosure of this whole question. But I contend that with those words stricken out the effect of the decision is just what I have been contending for. The court upheld the law and said it is free from the charge of delegating legislative power, because they say the board under that law had to perform only an administrative duty—making a mathematical calculation. That is all I claim for the opinion.

Mr. McCUMBER. May I ask the Senator a question right here on that point? How does he harmonize this view with the Tea case, decided about a year ago, where the only standard was that we should exclude any teas of an inferior grade? The question of inferiority, it seems to me, must have involved judgment. It is a question which would require investigation and a conclusion based upon the judgment formed from that investigation. I confess for myself I have not been able to harmonize that case with some of these other decisions.

Mr. FORAKER. The distinction I would make as to that case—and I can realize how the Senator has some embarrassment on account of it, for it gave me some when I first read it—is that it does practically establish a definite standard, for it commands the Secretary of the Treasury and the board of experts to employ the recognized standards by which to determine what is an inferior quality for cup tea, and that is treated as though it is something well understood, and in conforming to that there was practically no exercise of discretion.

The statute goes further and it provides that the tea must be boiled thus and so—immersed in boiling water; I have forgotten what the expression is. I have not looked at that case for some months. But I think if the Senator studies it he will find that that is what perhaps was in the mind of the court, and no doubt enabled the court to differentiate that case from the other. Whatever may be the tea case, here is an opinion handed down a week ago last Monday; it is the very latest utterance from the Supreme Court; and it does say what I have contended for. I do not want to discuss what is not in the case.

Mr. BAILEY. I assume, whatever may be the Senator's opinion upon the merits of the legislation, that he is anxious, if a bill passes, that it shall be constitutional. I am not one of those who insist that this question has ever been decided by the Supreme Court, and I recognize that it may be a very close question, too, as to the power of Congress to authorize the Commission to fix rates. I will venture, however, to express the opinion that the Supreme Court will sustain that power if granted in those direct terms.

But I desire to ask the Senator from Ohio if the matter can not be made more certain in this way: That we authorize the Commission to establish a rate, either a rate that is just and reasonable or a rate that affords a just compensation, as we may determine, and then provide that the rate so prescribed shall thereafter be the lawful rate? It would seem, then, if you go into the court to attack that rate, you are not really attacking the rate made by the Commission, but you are attacking the rate which Congress has declared to be the law of the land. Certainly, if the power can be lodged with the Commission in any way, that is the safest way in which to do it.

Mr. FORAKER. I perhaps would agree with the Senator from Texas, upon further thought, and I have no disposition to take exception to his suggestion now. It may be a way out of it to those who want this kind of a bill.

But now I get back to my amendment; and I have detained the Senate so much longer than I should have done that I hope I may be allowed to conclude. All this effort has been to show that this bill is, as the Senator from Texas has just said, a bill which, if it becomes a law, may be held by the court to be unconstitutional. I do not think there is any doubt about it. I have not any more doubt about the unconstitutionality of this bill, not only on that one ground, but other grounds which I have heretofore enumerated and detailed, than I have that I am here discussing it this afternoon—I have not a bit more doubt—and I do not see how anybody else could have any doubt about it.

But, now, Mr. President, whether or not I am right about it that it is unconstitutional, we are all of one mind, in agreement with the Senator from Texas, that these are serious questions, and if we can, in legislating on this subject, make this bill constitutional, we should do it, and I am going to labor in every way I can to help to do it. We should, however, in addition to that—for I do not see how you are going to establish a standard that will relieve you from the question of the delegation of legislative power—as I have proposed, attach an amendment as an additional section that will broaden and strengthen the Elkins law, so that if this should fail we will have that remedy, a better remedy than the law as it is affords. There is nothing in this amendment that is in conflict with a word in the Hepburn bill. It is not in conflict with any provision of it. It simply provides that when a complaint is made before the Commission the Commission shall exercise its powers of conciliation, if they are sufficient, and if not, it shall send the complaint to the proper court having jurisdiction, there to be tried in a suit brought by the Government at the expense of the Government, without any expense whatever to the shipper, and the provision of this amendment is that the proceedings there shall be expedited.

It provides also a remedy as against excessive rates. The law as it now is commands just and reasonable rates; that is, the lawful rate, a just and reasonable rate. Much more will that be so when we pass this amendment, because it emphasizes that. If a shipper shall come and complain that a rate which has been put in operation is unjust and unreasonable because excessive, he can have his remedy before the Commission, under the Hepburn bill, after a full hearing to be reviewed in court, if we put a broad review amendment on it, or he can apply at once under this to the court for relief, and the court, in my opinion, has full power to enjoin what is in excess of the lawful rate.

Mr. MORGAN. I wish to ask the Senator from Ohio, before he takes his seat, if he considers that his amendment would be a sufficient justification for him to vote for the bill with all the other provisions in it?

Mr. FORAKER. I would not like to vote for the bill with the provisions in it that are in it, because I doubt their constitutionality. I do not like to vote for a measure that I think is unconstitutional. But with all my brother Senators differing from me on that point, I might, if I thought I was getting something that would bring real relief, be willing to forego a great deal.

Mr. MORGAN. After we had gotten the bill in shape to satisfy the Senator from Ohio, would he see any objection of a commercial, constitutional, or legal sort to a provision in the bill covering transportation over the rivers and water courses?

Mr. FORAKER. No; I contended for that in the committee, if the Senator please, and I contended for it in a speech here; that is to say, I contended for it in the sense that I pointed out that the bill does not extend to interstate commerce carried on upon the rivers. I live on the river at Cincinnati, and we have commercial relations with New Orleans. It is interstate commerce.

Mr. MORGAN. Why should it not extend to rivers as well as to railroads?

Mr. FORAKER. It should extend to the rivers as well as to the railroads, not on account of excessive rates, because the water rates are excessively low and nobody complains of them, but because they give rebates and because they discriminate both on the rivers and on the lakes.

Mr. MORGAN. Then why not extend the measure over the navigable waters of the United States?

Mr. FORAKER. I think we should extend it, as I say, over the lakes and over the rivers. I think this bill should apply to interstate commerce carried on all interstate carriers, no matter whether by rail or by water. That is my contention about it. I think the Senator from Alabama was right in his contention in that respect.

Mr. President, I wanted to cite some authorities, but it is late, and I will forego that if the Senate will allow me to reserve the right to do it at some later time. I mean some authorities to show that it is competent for Congress to confer on the Interstate Commerce Commission authority to bring suits either in its own name or in the name of the Government without expense to the shipper to enjoin excessive rates. I have a number of decisions to that effect, if anybody challenges it at any time.

Now, I want Senators to take this matter into consideration. I take it every man here wants to so legislate as to afford a remedy against the evils that have been complained of. Every man here knows that no remedy will be afforded if we pass an unconstitutional law. Every man here knows the law we have known as the "Elkins law" has been an efficient law in so far as it has been put to the test. Every man here knows that if we broaden the provisions of that law in the way I propose it will not conflict with this other legislation, and if other legislation about which we all must have apprehension as to its constitutionality should fail in the courts we will then have a better law, and then all this effort we are making will not have been in vain.

APPENDIX.

Amendment intended to be proposed by Mr. FORAKER to the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, viz: Insert the following:

SEC. —. *That section 3 of the act approved February 19, 1903, entitled "An act to further regulate commerce with foreign nations and among the States," be, and the same is hereby, amended so as to read as follows:*

"SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is, *either singly or in cooperation with one or more other carriers, publishing and charging unjust or unreasonable rates therefor, or is* committing any discriminations forbidden by law, *whether as between shippers, places, commodities, or otherwise, and whether effected by means of rates, rebates, classifications, preferentials, private cars, refrigerator cars, switching or terminal charges, elevator charges, failure to supply shippers equally with cars, or in any other manner whatsoever, it shall, if the complainants so request or if for any reason it prefer or deem advisable to proceed under the provisions of this section instead of under the other provisions of this act, be its duty, if such carrier or carriers will not, after due notice, desist from such violation of the law, to file with the Attorney-General a brief statement of its grounds for such belief and the evidence in support thereof, and thereupon, under his direction, and in the name of the United States,* a petition *shall* be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in *any one of* such judicial *districts* or *States*, whereupon it shall be the duty of the court summarily to inquire into the *facts and* circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary; and upon being satisfied of the truth of the allegations of said petition said court shall *enjoin, according to the ground of complaint, the publishing and charging of all of any such rate or rates so complained of, in excess of what the court shall find to be reasonable and just, which shall continue to be the lawful rate as heretofore and now prescribed by statute; such injunction to continue in force during such period as the same or substantially the same conditions may continue, as are established by the evidence in such case; or shall* enforce an observance of the published tariffs *if they are found to be just and reasonable;* or direct and require a discontinuance of such *discriminations*, by *such* proper orders, writs, and process *as will, as nearly as may be, prohibit unlawful discriminations as to both persons and places and secure equality of right and treatment to all shippers and localities*, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier *or carriers complained of; and all proceedings hereunder shall be* subject to the right of appeal *to the Supreme Court* as now provided by *the act of February 11, 1903, to expedite the hearings of suits in equity; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon, unless the circuit or Supreme Court, on application therefor made for good cause, so order.* It shall be the duty of the several district attorneys of the United States, whenever the Attorney-General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this act *shall be prosecuted at the cost of the United States or the railroad company or companies as the court may adjudge equitable and just, and such proceedings* shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said act approved February 4, 1887, entitled 'An act to regulate commerce' and the acts amendatory thereof. And in proceedings under this act and the acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and *any* shipper *or shippers who may be interested*, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper *or shippers*, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence *or information*, documentary or otherwise, in such proceeding: *Provided*, That the provisions of an act entitled 'An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted, approved February 11, 1903,' shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission."

SEC. —. *That nothing in the act to regulate commerce, approved February 4, 1887, or in the act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890, or in any act amendatory of either of said acts, shall hereafter apply to the establishment of rates or the changing or publication of the same with respect to foreign commerce, or shall prohibit any necessary and reasonable agreement of two or more carriers with respect to rates or charges and the maintenance and observance of the same for interstate transportation that is not in unreasonable restraint of trade or commerce with foreign nations or among the several States.*

An act to further regulate commerce with foreign nations and among the States.

Be it enacted, etc., That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give or to solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give or solicit, accept or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000. In all convictions occurring after the passage of this act for offenses under said acts to regulate commerce, whether committed before or after the passage of this act, or for offenses under this section, no penalty shall be imposed on the convicted party other than the fine prescribed by law, imprisonment wherever now prescribed as part of the penalty being hereby abolished. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers, or agents in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act.

SEC. 2. That in any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before the Interstate Commerce Commission or be begun originally in any circuit court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorized by law with respect to carriers.

SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States, whenever the Attorney-General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said act approved February 4, 1887, entitled "An act to regulate commerce and the acts amendatory thereof." And in proceedings under this act and the acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceeding: *Provided*, That the provisions of an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted, approved February 11, 1903," shall apply to any case prosecuted under the direction of Attorney-General in the name of the Interstate Commerce Commission.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed, but such repeal shall not affect causes now pending nor rights which have already accrued, but such causes shall be prosecuted to a conclusion and such rights enforced in a manner heretofore provided by law and as modified by the provisions of this act.

SEC. 5. That this act shall take effect from its passage.

Public, No. 103. Approved February 19, 1903, second session, Fifty-seventh Congress.

Mr. LODGE. Mr. President, in regard to some figures that were given about the spindles, which I think were incorrectly given, I sent for the volume of the Census on Cotton Manufactures, in order to see what the figures were in 1900. I find that the total number of active spindles in cotton mills—and I may say a note states that in 1900 there were no idle spindles in the United States—not in knit goods or hosiery or worsted, but in cotton mills alone, there were in the New England States 12,850,000 spindles; in the Southern States, 4,298,000 spindles. In Massachusetts there were 7,784,000 spindles, 3,000,000 more than in all the Southern States. So I think there must be a mistake in the figures given by the Senator from North Carolina, as I understood them.

Mr. FORAKER. The Senator has the statistics for 1900, I believe.

Mr. LODGE. I have.

Mr. FORAKER. The statistics for the last year show that there has been such an increase of cotton mills and spindles in the South that there is a very slight difference between the number in New England and in the Southern States.

Mr. LODGE. I have been looking at the statistics as nearly as I could get them. In the last five years there has been an increase in the value of Massachusetts cotton products of something over 10 per cent, and the number of spindles I know keep pace with it. They put more spindles in the city of Lawrence last year than were ever put in in the history of the city. It would make in the State of Massachusetts over 8,000,000 spindles. I am almost certain that the Senator's figures can not be right.

Mr. FORAKER. I do not pretend to contend as against the Senator, but I do remember having seen a statement of that kind; I do not know just where.

Mr. LODGE. Of course there are no complete figures later than the census of 1900. The value of cotton goods in Massachusetts was $110,000,000; in South Carolina, second, $30,000,000. Those were the latest figures I was able to get. One hundred and ten million dollars was the value in Massachusetts, and South Carolina came second with $30,000,000. The increase in the South in the decade from 1890 to 1900 was something phenomenal. South Carolina increased 1,000,000 spindles and North Carolina about 800,000 spindles. Unless I am very greatly at fault there has been no such increase in the last five years.

Mr. FORAKER. The statement I saw was to the effect that the increase had been so phenomenally great that now the number of spindles in the South was almost equal to the number of spindles in New England; and it was also to the effect that the quality of cotton manufactures in the South was rapidly increasing, that a much finer quality now than heretofore has been produced. For a long time it was thought that the climatic conditions were such that fine manufactures of cotton goods could be made only at the New England mills, but they are now finding that there is no such difference.

Mr. BACON. As to the number of spindles, I think the Senator will find from an investigation that the amount of raw cotton manufactured in the South is equal if not a little greater than that manufactured in the North.

Mr. CLAY. Will the Senator let me call his attention to one fact? I do not care to get into any controversy with New England. I hope New England will continue to prosper.

Mr. LODGE. Certainly. Of course I have nothing of that sort in mind.

Mr. CLAY. In 1904, 10,002,000 bales of cotton were produced. The northern mills consumed 2,046,000 bales, and the South 1,889,000 bales. My understanding is that in the year 1905 the probable amount of cotton consumed in the South will equal that in the northern mills. I will say to the Senator from Massachusetts that during the last three or four years we have advanced on that line very rapidly.

Mr. LODGE. I know it.

Mr. CLAY. And at no distant day, doubtless, the South will manufacture a large part of the cotton produced in the South. I wish also to call the Senator's attention to the fact that in the year 1896 we consumed only about one-half of what we consumed in the year 1904.

Mr. LODGE. The growth has been phenomenal.

Mr. CLAY. It has been phenomenal.

Mr. LODGE. The Senator, of course, will remember that as to the number of spindles the amount of cotton consumed is not quite a fair test, because the New England goods are finer goods, and, I think, the weight on the whole will be less.

Mr. CLAY. I am informed by the junior Senator from Tennessee [Mr. FRAZIER]—I think he has probably the calculation—that in 1905 the South consumed in her mills 2,025,000 bales.

Mr. LODGE. I have no doubt of that. I know the increase has been very great. But, Mr. President, the questions of statistics are only leading up to the point I wanted to make, which came out in this debate which I think is a very important point, and that is the distinction between rates on exports and rates on imports. There is not a country in the world to-day, whether they have government rates or private ownership or government control, that does not make low rates for its exports. It makes lower rates for its exports than for anything else in order to reach the foreign market. Nobody can doubt the justice of that. Any law which attempted to stop a lower rate on exports would be one of the most severe blows that could be dealt to the business of the country.

On the other hand, Mr. President, take the imports coming in. The people on the seacoast, the people of New York, Boston, and Baltimore, who get goods delivered from the ship plus the duty, get the full protection of the law; but between those seaboard points and the interior points, by reducing rates on imports, the railroads annul, in many cases, the operation of the tariff.

It is not my intention to argue the question of the merits of the protective tariff, but we have a protective tariff. Everybody is entitled to an equal measure of protection, and discriminations should not be made in railroad rates which result in annulling the laws of the United States.

I consider it absolutely false economy to undertake by railroad rates to secure to a particular region what is called its natural advantages; but when railroad rates are used to nullify the laws of the United States, which must be equal to all the people of the United States, you open up an entirely different question.

Therefore, we are confronted with what I consider two propositions which we can not escape. One is that we ought to make low rates for exports going out. The other is that we ought not to give such advantages to the rates on imports coming in that the inhabitants of the seaboard get one measure of protection from the laws and the inhabitants of the interior get another measure of protection, so that an import which can not compete in the cities of the seaboard goes into the cities of the West, owing to the effect of the railroad rate discriminations, at a price which enables it to overcome the protective tariff and compete prejudicially with the native production.

Those two instances alone, Mr. President, show the utter impossibility of establishing a hard and fast system of distance or mileage rates. You destroy the business of the country by any such system as that. Whoever is going to regulate our rates has got to be given the power to discriminate as to exports and see that there is no discrimination perhaps as to imports. I say—I am illustrating in only one single direction—but I say when you are putting such a vast power as that into the hands of any body of men, it behooves us to guard it with extreme care.

I only made this point because the Senator from Ohio was discussing it this afternoon.

EXECUTIVE SESSION.

Mr. HALE. It is late, and there ought to be an executive session. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned until to-morrow, Friday, April 13, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 12, 1906.

SURVEYOR OF CUSTOMS.

Perry M. Lytle, of Pennsylvania, to be surveyor of customs in the district of Philadelphia, in the State of Pennsylvania. (Reappointment.)

PROMOTIONS IN THE MARINE CORPS.

Maj. Laurence H. Moses to be a major in the Marine Corps from the 6th day of March, 1904, to correct the date of his promotion as confirmed on January 27, 1905, in accordance with an opinion of the Attorney-General dated March 24, 1906.

Maj. Wendell C. Neville to be a major in the Marine Corps from the 4th day of June, 1904, to correct the date of his promotion as confirmed on January 27, 1905, in accordance with an opinion of the Attorney-General dated March 24, 1906.

Second Lieut. Davis B. Wills to be a first lieutenant in the Marine Corps from the 29th day of July, 1904, vice Second Lieut. Edgar B. Hayes, who was transferred to the retired list after being due for promotion.

Second Lieut. Edward S. Yates to be a first lieutenant in the Marine Corps from the 1st day of December, 1904, vice First Lieut. William W. Low, promoted.

Second Lieut. Harry O. Smith to be a first lieutenant in the Marine Corps from the 2d day of December, 1904, vice Second Lieut. Maurice V. Campbell, who was suspended from promotion after having failed to qualify therefor.

Capt. Thomas C. Treadwell to be a major in the Marine Corps from the 9th day of December, 1904, vice Maj. Lincoln Karmany, promoted.

Second Lieut. Albert Hamilton to be a first lieutenant in the Marine Corps from the 9th day of December, 1904, vice First Lieut. Leof M. Harding, promoted.

Capt. Dion Williams to be a major in the Marine Corps from the 28th day of February, 1905, vice Maj. George Barnett, promoted.

First Lieut. Harry R. Lay to be a captain in the Marine Corps from the 28th day of February, 1905, vice Capt. Dion Williams, promoted.

Second Lieut. William P. Upshur to be a first lieutenant in the Marine Corps from the 28th day of February, 1905, vice First Lieut. Harry R. Lay, promoted.

Second Lieut. Lovick P. Pinkston to be a first lieutenant in the Marine Corps from the 1st day of March, 1905 (subject to the examinations required by law), vice First Lieut. Frank E. Evans, retired.

Capt. Edward R. Lowndes to be a major in the Marine Corps from the 11th day of March, 1905, vice Maj. Charles A. Doyen, promoted.

First Lieut. Charles B. Taylor to be a captain in the Marine Corps from the 11th day of March, 1905, vice Capt. Edward R. Lowndes, promoted.

Second Lieut. Arthur P. Crist to be a first lieutenant in the Marine Corps from the 11th day of March, 1905, vice First Lieut. Charles B. Taylor, promoted.

Capt. John T. Myers to be a major in the Marine Corps from the 1st day of April, 1905 (subject to the examinations required by law), vice Maj. James E. Mahoney, promoted.

First Lieut. John W. Wadleigh to be a captain in the Marine Corps from the 1st day of April, 1905, vice Capt. John T. Myers, promoted.

Second Lieut. Edward W. Banker to be a first lieutenant in the Marine Corps from the 1st day of April, 1905, vice First Lieut. John W. Wadleigh, promoted.

First Lieut. William R. Coyle to be a captain in the Marine Corps from the 1st day of August, 1905, vice First Lieut. Benjamin B. Woog, who was honorably discharged after being due for promotion and before he qualified therefor.

Second Lieut. William E. Parker to be a first lieutenant in the Marine Corps from the 1st day of August, 1905, vice First Lieut. William R. Coyle, promoted.

First Lieut. William C. Harllee to be a captain in the Marine Corps from the 30th day of August, 1905, vice Capt. John G. Muir, retired.

Second Lieut. William M. Small to be a first lieutenant in the Marine Corps from the 30th day of August, 1905, vice First Lieut. William C. Harllee, promoted.

Capt. Albertus W. Catlin to be a major in the Marine Corps, to fill a vacancy occurring February 1, 1906, caused by the promotion of Maj. Franklin J. Moses, and to take rank from June 4, 1905, the date of the completion of his one year's loss of date caused by his failure to qualify for promotion.

First Lieut. Richard S. Hooker to be a captain in the Marine Corps from the 1st day of February, 1906, vice Capt. Albertus W. Catlin, promoted.

Second Lieut. Maurice V. Campbell to be a first lieutenant in the Marine Corps from the 1st day of February, 1906, to fill a vacancy caused by the promotion of First Lieut. Richard S. Hooker, and to take rank from April 14, 1905, the date of the completion of his one year's loss of date caused by his failure to qualify for promotion.

Second Lieut. Epaminondas L. Bigler to be a first lieutenant in the Marine Corps from the 14th day of March, 1906 (subject to the examinations required by law), vice Second Lieut. Alexander B. Mikell, who was transferred to the retired list after being due for promotion.

POSTMASTERS.

ARKANSAS.

James Brizzolara to be postmaster at Fort Smith, in the county of Sebastian and State of Arkansas, in place of James Brizzolara. Incumbent's commission expires May 28, 1906.

Henry D. Lefors to be postmaster at Gentry, in the county of Benton and State of Arkansas. Office became Presidential April 1, 1906.

ILLINOIS.

George A. Lyman to be postmaster at Amboy, in the county of Lee and State of Illinois, in place of George A. Lyman. Incumbent's commission expired March 14, 1906.

William Stickler to be postmaster at Lexington, in the county of McLean and State of Illinois, in place of William Stickler. Incumbent's commission expires June 10, 1906.

INDIANA.

Lewis Dennis to be postmaster at Salem, in the county of Washington and State of Indiana, in place of Lewis Dennis. Incumbent's commission expires June 24, 1906.

MAINE.

Winchester G. Lowell to be postmaster at Auburn, in the county of Androscoggin and State of Maine, in place of Winchester G. Lowell. Incumbent's commission expires April 17, 1906.

MASSACHUSETTS.

George G. Cook to be postmaster at Milford, in the county of Worcester and State of Massachusetts, in place of George G. Cook. Incumbent's commission expires June 24, 1906.

John A. Thayer to be postmaster at Attleboro, in the county of Bristol and State of Massachusetts, in place of John A. Thayer. Incumbent's commission expires June 30, 1906.

MICHIGAN.

Loomis K. Bishop to be postmaster at Grand Rapids, in the county of Kent and State of Michigan, in place of Loomis K. Bishop. Incumbent's commission expires May 19, 1906.

MISSOURI.

William E. Coolidge to be postmaster at New Franklin, in the county of Howard and State of Missouri. Office became Presidential January 1, 1906.

Dan McCoy to be postmaster at Sikeston, in the county of Scott and State of Missouri, in place of Ulysses G. Holley. Incumbent's commission expires April 17, 1906.

NEW HAMPSHIRE.

Lewis H. Baldwin to be postmaster at Wilton, in the county of Hillsboro and State of New Hampshire, in place of Lewis H. Baldwin. Incumbent's commission expires May 9, 1906.

Thomas D. Winch to be postmaster at Peterboro, in the county of Hillsboro and State of New Hampshire, in place of George P. Dustan. Incumbent's commission expires June 24, 1906.

NEW YORK.

Frank Foggin to be postmaster at Port Richmond, in the county of Richmond and State of New York, in place of Frank Foggin. Incumbent's commission expires April 30, 1906.

Max Geldner to be postmaster at New Dorp, in the county of Richmond and State of New York, in place of Max Geldner. Incumbent's commission expires April 25, 1906.

George M. Mathews to be postmaster at Brocton, in the county of Chautauqua and State of New York, in place of George R. Pettit, resigned.

Stephen G. Newman to be postmaster at Haverstraw, in the county of Rockland and State of New York, in place of Stephen G. Newman. Incumbent's commission expires June 25, 1906.

Francis H. Salt to be postmaster at Niagara Falls, in the county of Niagara and State of New York, in place of Francis H. Salt. Incumbent's commission expires June 24, 1906.

PENNSYLVANIA.

Benjamin F. Magnin to be postmaster at Darby, in the county of Delaware and State of Pennsylvania, in place of Albert Magnin, deceased.

John H. Martin to be postmaster at Greenville, in the county of Mercer and State of Pennsylvania, in place of John H. Martin. Incumbent's commission expires May 2, 1906.

James H. Porter to be postmaster at New Wilmington, in the county of Lawrence and State of Pennsylvania, in place of James H. Porter. Incumbent's commission expired April 10, 1906.

Christian H. Sheets to be postmaster at Braddock, in the county of Allegheny and State of Pennsylvania, in place of Christian H. Sheets. Incumbent's commission expires June 24, 1906.

Martin E. Strawn to be postmaster at Starjunction, in the county of Fayette and State of Pennsylvania. Office became Presidential April 1, 1906.

Andrew J. Sutton to be postmaster at Smithfield, in the county of Fayette and State of Pennsylvania. Office became Presidential April 1, 1906.

TEXAS.

Gains L. Burk to be postmaster at Van Alstyne, in the county of Grayson and State of Texas, in place of Gains L. Burk. Incumbent's commission expires May 19, 1906.

Everton W. Kennerly to be postmaster at Giddings, in the

county of Lee and State of Texas, in place of Everton W. Kennerly. Incumbent's commission expires May 19, 1906.

Robert J. King to be postmaster at Clarksville, in the county of Red River and State of Texas, in place of Robert J. King. Incumbent's commission expires April 18, 1906.

VERMONT.

William H. Humphrey to be postmaster at Fort Ethan Allen, in the county of Chittenden and State of Vermont. Office became Presidential January 1, 1906.

VIRGINIA.

L. G. Funkhouser to be postmaster at Roanoke, in the county of Roanoke and State of Virginia, in place of Samuel H. Hoge. Incumbent's commission expired March 15, 1906.

WISCONSIN.

Warner S. Carr to be postmaster at Lake Nebagamon, in the county of Douglas and State of Wisconsin, in place of Warner S. Carr. Incumbent's commission expired April 10, 1906.

Arthur E. Dudley to be postmaster at Neillsville, in the county of Clark and State of Wisconsin, in place of Frederick Reitz, resigned.

A. C. Vanderwater Elston to be postmaster at Muscoda, in the county of Grant and State of Wisconsin. Office became Presidential April 1, 1906.

WYOMING.

Ida A. Hewes to be postmaster at Casper, in the county of Natrona and State of Wyoming, in place of Ida A. Hewes. Incumbent's commission expires June 27, 1906.

Harvey Springer to be postmaster at Cambria, in the county of Weston and State of Wyoming, in place of Harvey Springer. Incumbent's commission expires June 19, 1906.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 12, 1906.

APPOINTMENT IN THE MARINE CORPS.

Russel H. Davis, a citizen of Minnesota, to be a second lieutenant in the Marine Corps from the 14th day of March, 1906.

PROMOTIONS IN THE NAVY.

Lieut. Harley H. Christy to be a lieutenant-commander in the Navy from the 1st day of January, 1906.

Lieut. Noble E. Irwin to be a lieutenant-commander in the Navy from the 1st day of January, 1906.

Gunner Robert E. Simonson to be a chief gunner in the Navy from the 10th day of March, 1906, upon the completion of six years' service, in accordance with the provisions of the act of Congress approved March 3, 1899, as amended by the act of Congress approved April 27, 1904.

Midshipman Walter A. Smead to be an ensign in the Navy from the 2d day of February, 1906.

POSTMASTERS.

CALIFORNIA.

Leander H. Miner to be postmaster at Ferndale, in the county of Humboldt and State of California.

COLORADO.

Oscar Allert to be postmaster at Louisville, in the county of Boulder and State of Colorado.

GEORGIA.

James O. Varnedoe to be postmaster at Valdosta, in the county of Lowndes and State of Georgia.

IOWA.

William B. Arbuckle to be postmaster at Villisca, in the county of Montgomery and State of Iowa.

KANSAS.

William Smith to be postmaster at Galena, in the county of Cherokee and State of Kansas.

KENTUCKY.

William H. Overby to be postmaster at Henderson, in the county of Henderson and State of Kentucky.

Robert R. Perry to be postmaster at Winchester, in the county of Clark and State of Kentucky.

Frederick A. Van Rensselaer to be postmaster at Owensboro, in the county of Daviess and State of Kentucky.

Frank W. Stith to be postmaster at Latonia, in the county of Kenton and State of Kentucky.

MICHIGAN.

Frank P. Dunwell to be postmaster at Ludington, in the county of Mason and State of Michigan.

John W. Fitzgerald to be postmaster at Grand Ledge, in the county of Eaton and State of Michigan.

Henry C. Minnie to be postmaster at Eaton Rapids, in the county of Eaton and State of Michigan.

Calvin A. Palmer to be postmaster at Manistee, in the county of Manistee and State of Michigan.

Lester B. Place to be postmaster at Three Rivers, in the county of St. Joseph and State of Michigan.

Kenneth E. Struble to be postmaster at Shepherd, in the county of Isabella and State of Michigan.

James A. Trotter to be postmaster at Vassar, in the county of Tuscola and State of Michigan.

James H. Williams to be postmaster at Whitehall, in the county of Muskegon and State of Michigan.

David E. Wilson to be postmaster at Belding, in the county of Ionia and State of Michigan.

NEBRASKA.

Henry C. Booker to be postmaster at Gothenburg, in the county of Dawson and State of Nebraska.

Horace M. Wells to be postmaster at Crete, in the county of Saline and State of Nebraska.

NEW MEXICO.

Lucius E. Kittrell to be postmaster at Socorro, in the county of Socorro and Territory of New Mexico.

NEW YORK.

Fred Dakin to be postmaster at Millerton, in the county of Dutchess and State of New York.

NORTH DAKOTA.

Floyd C. White to be postmaster at Donnybrook, in the county of Ward and State of North Dakota.

OHIO.

H. W. Krumm to be postmaster at Columbus, in the county of Franklin and State of Ohio.

OREGON.

Squire Farrar to be postmaster at Salem, in the county of Marion and State of Oregon.

PENNSYLVANIA.

Edwin G. McGregor to be postmaster at Burgettstown, in the county of Washington and State of Pennsylvania.

Byron A. Weaver to be postmaster at Montoursville, in the county of Lycoming and State of Pennsylvania.

SOUTH DAKOTA.

Henry S. Williams to be postmaster at Aberdeen, in the county of Brown and State of South Dakota.

VIRGINIA.

Louis L. Whitestone to be postmaster at Culpeper, in the county of Culpeper and State of Virginia.

WISCONSIN.

William Case to be postmaster at Mauston, in the county of Juneau and State of Wisconsin.

Henry H. Hartson to be postmaster at Greenwood, in the county of Clark and State of Wisconsin.

Elisha W. Keyes to be postmaster at Madison, in the county of Dane and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April 12, 1906.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

SECOND URGENT DEFICIENCY BILL.

Mr. LITTAUER. Mr. Speaker, I present a conference report on the bill H. R. 17359, the second urgent deficiency bill, and ask that it be printed under the rule.

The SPEAKER. The gentleman presents the conference report, which will be printed under the rule.

WILLIAM V. VAN OSTERN.

The SPEAKER laid before the House the bill (H. R. 6401) granting an increase of pension to William V. Van Ostern, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

JAMES WILSON.

The SPEAKER also laid before the House the bill (H. R. 11748) granting an increase of pension to James Wilson, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

ALICE B. HARTSHORNE.

The SPEAKER also laid before the House the bill (H. R. 13010) granting an increase of pension to Alice B. Hartshorne, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

HENRY RITTENHOUSE.

The SPEAKER also laid before the House the bill (H. R. 6158) granting an increase of pension to Henry Rittenhouse, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

CARRIE A. CONLEY.

The SPEAKER also laid before the House the bill (H. R. 9924) granting an increase of pension to Carrie A. Conley, with a Senate amendment, which was read.

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

POSTAL AGENT AT SHANGHAI, CHINA.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I am instructed by the Committee on Expenditures in the Treasury to report back House resolution 393 favorably, with the recommendation that it do pass.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to send to the House of Representatives, for its information, certified copies of all accounts of the United States postal agent at Shanghai, China, on file in the office of the Auditor for the Post-Office Department, of all moneys received and expended by said postal agent during the fiscal years ending 1901, 1902, 1903, 1904, and 1905, and for the quarters ending September 30, 1905, and December 31, 1905; also, certified copies of all accounts of the United States consul at Tientsin, China, on file in the office of the Auditor for the Department of State and other Departments, of all moneys received and expended by said consul during the fiscal years ending 1901, 1902, 1903, 1904, 1905, and for the quarters ending September 30, 1905, and December 31, 1905.

Mr. ADAMS of Pennsylvania. Mr. Speaker, I move the adoption of the resolution.

The question was taken; and the resolution was agreed to.

LIFE-SAVING STATION, NEAH BAY, WASH.

Mr. HUMPHREY of Washington. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 5026.

The bill was read, as follows:

An act (S. 5026) providing for the establishment of a life-saving station at or near Neah Bay, in the State of Washington, and for the construction of a first-class ocean-going tug to be used in connection therewith, for life-saving purposes in the vicinity of the north Pacific coast of the United States, and so forth.

Be it enacted, etc., That the Secretary of the Treasury be, and is hereby, authorized to establish a life-saving station at or near Neah Bay, in the State of Washington, at such point as the General Superintendent of the Life-Saving Service may recommend, said station, in addition to the usual equipment, to be supplied with two self-righting and self-bailing lifeboats.

SEC. 2. That for use in connection with said life-saving station there shall be constructed a first-class ocean-going tug, for service in saving life and property in the vicinity of the north Pacific coast of the United States, which said tug shall be equipped with wireless-telegraph apparatus, surfboats, and such other modern life and property saving appliances as may be deemed useful in assisting vessels and rescuing persons and property from the perils of the sea.

SEC. 3. That for the operation of said tug the Secretary of the Treasury is hereby authorized to employ a proper crew, including the necessary officers, engineers, firemen, and so forth, and the vessel shall be under the control and direction of the keeper of the life-saving station hereby authorized to be established.

SEC. 4. That to carry into effect the provisions of sections 1 and 2 of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $200,000, or so much thereof as may be necessary.

The amendments recommended by the committee were read, as follows:

On page 1, at the end of line 8, after the word "lifeboats," change the period to a comma and add the following: "at a cost not to exceed $30,000."

On page 1, lines 9 and 10, strike out the following: "for use in connection with said life-saving station."

On page 1, in line 10, after the word "construct," insert the following: "for and under the supervision of the Revenue-Cutter Service."

On page 2, line 5, after the word "sea," change the period to a comma and insert the following: "at a cost not to exceed $170,000."

On page 2 strike out all of section 3 and insert in lieu thereof the following: "SEC. 3. That said tug shall be manned and operated by the Revenue-Cutter Service, and, under such regulations as the Secretary of the Treasury may prescribe, shall cooperate with the life-saving station hereby authorized to be established."

On page 2 strike out all of section 4.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendments were agreed to.

The bill as amended was ordered to a third reading; and was accordingly read the third time, and passed.

On motion of Mr. HUMPHREY of Washington, a motion to reconsider the vote by which the bill was passed was laid on the table.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the Post-Office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. SHERMAN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of House bill 16953. The Clerk will commence to read where he discontinued yesterday.

The Clerk read as follows:

Assistant superintendents of mails, bookkeepers, cashiers, chief mailing clerks, chief stamp clerks, finance clerks, superintendents of delivery, superintendents of mails, superintendents of money order, superintendent of registry, and superintendents of stations, twenty-nine, at not exceeding $2,200 each.

Mr. JOHNSON. I move to strike out the last word. I want to ask the chairman of the committee if the six superintendents provided for on page 5, lines 16, 17, and 18, is a change of existing law—the superintendents in New York?

Mr. OVERSTREET. There is no change of the actual employees or their salaries in that item.

Mr. JOHNSON. I notice that in the testimony before the committee they pressed very earnestly for an increase in the salaries of certain of the superintendents in New York, wishing to amend the law of 1889.

Mr. OVERSTREET. No change was made in that item.

Mr. JOHNSON. I am glad to know it. I withdraw the pro forma amendment.

The Clerk read as follows:

Assistant cashiers, assistant superintendents of delivery, assistant superintendents of mails, assistant superintendents of money order, assistant superintendents of registry, assistant superintendents of stations, bookkeepers, cashiers, chief mailing clerks, chief stamp clerks, examiners of stations, finance clerks, private secretaries, superintendents of carriers, superintendents of delivery, superintendents of mails, superintendents of money order, superintendents of registry, superintendents of second-class matter, and superintendents of stations, sixty, at not exceeding $1,800 each.

Mr. JOHNSON. I move to strike out the last word. I notice on line 1, page 7, "private secretaries, at $1,800 each." I want to inquire of the gentleman from Indiana what is the necessity for a postmaster having a private secretary in addition to the other clerical force in the office?

Mr. OVERSTREET. If the gentleman will stop to consider the amount of work falling to a postmaster in one of the larger offices of the country, he will at once appreciate the necessity of a private secretary. In the smaller offices no provision is made for a private secretary, but in the larger offices, in the way of correspondence and in the way of filing of official correspondence, falling directly under the office of the postmaster, there is a great deal of work. Indeed, the committee have been urged very strongly to give additional compensation to the private secretaries in some of the larger offices of the country. There is a great necessity for it, in my judgment. The committee have simply continued the same arrangement that has existed for some time with respect to those private secretaries. It has provided for no additional number, nor has it provided for any increase of compensation.

Mr. JOHNSON. Mr. Chairman, I noticed in the hearings that the committee were very strongly urged to provide stenographers or correspondence clerks. I am very much gratified to see from the bill that they did not make that provision; but, as I read the testimony, the plea was that the postmasters came in with private secretaries who were not efficient, who did not understand the workings of the post-office, and, therefore, it was urged that these correspondence clerks to assist the postmasters should be taken from the regular force, they being men already in the service and who understood the work of the office. Now, I thought if it were necessary to take these experienced clerks out of the service to assist the postmasters and call them correspondence clerks, I could not see any necessity for going outside of the civil-service law and allowing the postmaster to name the private secretary, who would have to be instructed in the work. I am glad the committee did not yield to the importunities of the Department; but I am not sure that it would not be better to strike from this bill the provision for private secretaries who are not under the civil service and to have experienced correspondence clerks who are under the civil service, so that the postmaster's private secretary would really be a man who was efficient and thoroughly informed in the post-office work.

I withdraw the pro forma amendment.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LITTAUER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 980) to ratify an agreement with the Lower Brulé band of the Sioux tribe of Indians in South Dakota, and making appropriation to carry the same into effect.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17359) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 59. An act providing for the establishment of a uniform building line on streets in the District of Columbia less than 90 feet in width;

S. 1221. An act for the relief of J. de L. Lafitte;

S. 1223. An act granting a pension to Mary E. Bronaugh;

S. 3283. An act for the relief of John H. Hamiter;

S. 3482. An act to provide for the paving of a portion of Florida avenue between P and Q streets NW., city of Washington, D. C.;

S. 3820. An act for the relief of Eunice Tripler;

S. 4487. An act granting to the State of Oregon certain lands to be used by it for the purpose of maintaining and operating theron a fish hatchery;

S. 4805. An act to prohibit aliens from taking or gathering sponges in the waters of the United States;

S. 4806. An act to regulate the landing, delivery, cure, and sale of sponges;

S. 5288. An act appropriating $5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina; and

S. 5537. An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska.

The message also announced that the Senate had passed with amendments bill of the following title:

H. R. 17135. An act providing that the State of Montana be permitted to relinquish to the United States certain lands heretofore selected and select other lands from the public domain in lieu thereof.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 23.

Resolved by the Senate (the House of Representatives concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10129) to amend section 5501 of the Revised Statutes of the United States be, and the same is hereby, authorized to agree to an amendment on page 2, line 14 of the bill, inserting after the word "thereof" the words "and every member of Congress."

POST-OFFICE APPROPRIATION BILL.

The committe resumed its session.

The Clerk read as follows:

Assistant cashiers, assistant superintendents of delivery, assistant superintendents of mails, assistant superintendents of money order, asistant superintendents of registry, assistant superintendents of stations, bookkeepers, cashiers, chief mailing clerks, chief stamp clerks, examiners of stations, finance clerks, foremen of crews, private secretaries, superintendents of carriers, superintendents of delivery, superintendents of mails, superintendents of money order, superintendents of registry, superintendents of second-class matter, and superintendents of stations, 105, at not exceeding $1,600 each.

Mr. SMITH of Maryland. Mr. Chairman, when the subject of incorporating the National Educational Association was before this House a few days ago, I did not have an opportunity to say a word upon the subject, and as a member of the Committee on Education who carefully considered and cordially supported the measure in committee, I feel that I would be derelict in my duty, not only to the other members of the committee, but to the cause of education, if I remained altogether silent upon this, a subject in which I have always been deeply interested. Not only so, but I do not feel that I would be doing justice to my constituents nor to the State of Maryland, which I have the honor in part to represent.

The superintendent of public education in the State of Maryland, Dr. Martin Bates Stephens, speaking for the teachers of that great Commonwealth, strongly recommended and advocated the passage of this measure, and vouches for the correctness of the statement that the vast majority of the active members of the National Educational Association most heartily indorse the rechartering of the association as outlined by this bill. I will further state that Doctor Stephens has risen from the ranks of the country school teachers to the prominent position he now holds in the State and nation as a successful educator, and hence his advocacy—in the State of Maryland, at least—of measures along educational lines is given great weight. I have here a letter from Doctor Stephens and also one from the superintendent of public schools in Baltimore city, Dr. James H. Van Sickle, which, with the permission of the Chair and the House, I will print in the RECORD with my remarks.

The letters referred to are as follows:

STATE OF MARYLAND,
DEPARTMENT OF PUBLIC EDUCATION,
OFFICE OF THE STATE BOARD OF EDUCATION,
Annapolis, February 10, 1906.

Hon. THOMAS A. SMITH, M. C.,
Washington, D. C.

MY DEAR MR. SMITH: I write to you in the interest of the bill now before the House of Representatives asking for an extension of the charter of the National Educational Association. For six years I have served as a director of this association for the State of Maryland, and as such I have enjoyed good opportunities to study its management and policy. It has grown to be the greatest educational association in the world, and because of its national character and work I think it is entirely appropriate for the extension of its charter to be made by Congress. The membership of the National Educational Association has reached as high as 35,000, and includes nearly all the wide-awake educators and school supervisors of the United States, not to speak of school principals and teachers. It has given purpose to public education, and through the influences of this organized body order has come out of chaos, and the American school system is taking higher rank every year at home and abroad. Through the standing committees of this association every phase of education has been enriched, and the whole movement toward the essentials of uniformity received its impetus from the work of these committees.

It is true that the same men who formulated the policy of this association are still the guiding spirits in the deliberations of this body, but why should they not be? Who could have done the work better? No one can think of the history of this great organization of teachers without thinking of Commissioner W. T. Harris, Drs. Nicholas Murray Butler, Albert M. Lane, John W. Cook, F. Louis Soldau, J. M. Greenwood, and others—the two are inseparable. But under such able leadership and good management the splendid results of the National Educational Association are our heritage, and in my opinion the indorsement which the extension of the charter by Congress would imply is richly deserved and should be given to the men who are still controlling its affairs and who, so far as I know, have never abused a trust or proved derelict to a duty committed to them.

I hope you will see your way clear to vote for the bill. Its passage means a continuation of the good work so nobly begun.

I am, yours, very truly,

M. BATES STEPHENS.

BALTIMORE PUBLIC SHOOLS, *February 15, 1906.*

Hon. THOMAS A. SMITH, *Washington, D. C.*

DEAR SIR: The charter of the National Educational Association expires by limitation on February 24, 1906. The bill for rechartering the association, known as H. R. 10501, is, in the judgment of a great majority of the members of the association, one that ought to receive the support of Congress. I, personally, believe it to be a good bill.

Trusting that it may receive your support, I am,

Yours, very respectfully,

J. H. VAN SICKLE.

Mr. SMITH of Maryland. Now, Mr. Chairman, it is claimed by a small minority of the active members of the association that the words "United States" should not be added to the name of this National Educational Association, and that it should not have a national character, because progress and advancement have been made under the old name. I am inclined to the opinion that there is not much in a name, except as the acts of the individual or individuals make the name honorable and exalted, and while I have heard a great deal said during the last few months about the dishonor attached to the names of some individuals, legislative and business bodies of the United States of America, I am still inclined to think there is yet enough true manhood and statesmanship in this country to make the addition to the words "United States" an honorable and exalted appendage to the name of any society of this country; and, in fact, the more efficient and honorably conspicuous the society or organization, the more fitting and appropriate the addition of the words that still carry with them the pride and glory of the nation. It was contended by a few persons who came before the Committee on Education that this bill took away from the active members of the association the right of the initiative of the control and expenditure of the funds of this association. Why, Mr. Chairman, there is not a business man or Member of this House but who knows and understands that every successful business institution anywhere in this country is represented by directorates, executive boards, etc., to regulate and govern its affairs.

It would be practically impossible to accomplish anything

without gathering responsibility into capable executive hands. Stockholders elect directors, directors their officers and executive boards, and as they show inefficiency or dishonor they are relegated to the rear and new directorates are formed.

Why, sir, in a large body like the National Educational Association there must be concentration into the hands of executive committees. At the Ocean Grove meeting of the association there were 20,000 members present, and in Boston, Mass,, the association numbered about 35,000. Imagine this House of 386 Members attempting to do business without stringent rules and standing committees, if you please, and the result would be pandemonium would reign. Now, if you please, bring into the House the 80,000,000 active and associate members of this country and where would we be? Why, Mr. Chairman, the very foundation of the Government of this country is based upon similar principles of those of the association of which I am speaking. The House of Representatives, for instance, is supposed to be the initiator of expenditures, the Senate concurring or nonconcurring, and if the active members—the voters—disapprove our action they delegate at the polls a new directorate to be sent to Washington to administer public affairs according to the will of the people, and I have no doubt the active members of the National Educational Association of the United States will do the same thing with their directorate if necessity arises. I regard this measure as a progressive measure in the right direction, and hope the Senate will pass it as it went from this House. [Loud applause.]

The Clerk read as follows:

Assistant cashiers, assistant superintendents of delivery, assistant superintendents of mails, assistant superintendents of money order, assistant superintendents of registry, assistant superintendents of stations, bookkeepers, chief stamp clerks, clerks, finance clerks, foremen of crews, printers, private secretaries, superintendents of carriers, superintendents of second-class matter, and superintendents of stations, $1,820, at not exceeding $1,200 each.

Mr. OVERSTREET. Mr. Chairman, I move to amend, on line 20, page 9, by striking out the word "and" before the word "superintendents," and inserting, after the word "stations," the following: "and machinist."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In page 9, line 20, strike out the third word, "and," and after "stations" insert "and machinists."

The amendment was agreed to.

The Clerk read as follows:

Carpenters, clerks, clerks in charge of stations, pressmen, printers, and private secretaries, $3,490, at not exceeding $900 each.

Mr. OVERSTREET. Mr. Chairman, I move to amend by striking out the word "and," the second word in line 10, and inserting, after the word "secretaries," the words "and oilers."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 10, line 10, strike out the word "and" before "private;" and after "secretaries" insert the words "and oilers."

The amendment was agreed to.

The Clerk read as follows:

Carpenters, clerks, clerks in charge of stations, janitors, laborers, messengers, porters, pressmen, and watchmen, 3,500, at not exceeding $600 each.

Mr. OVERSTREET. Mr. Chairman, I move to strike out, in lines 20 and 21, page 10, the words "three thousand five hundred" and insert in lieu thereof the words "four thousand."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In lines 20 and 21 strike out the words "three thousand five hundred" and insert in lieu thereof the words "four thousand."

The amendment was agreed to.

Mr. BOUTELL. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 10, line 22, add the following: "*Provided*, That 100 of the additional clerks of this grade shall be immediately available and designated for service at the Chicago office."

Mr. BOUTELL. Mr. Chairman, one word of explanation as to the purpose of this amendment. Reference to the post-office bill discloses the fact that no appropriations are made for individual offices. The number of clerks are appropriated for in gross, and so in the case of the other officials and subordinates in the Post-Office Department. These clerks and other officials are assigned to the various offices by the Post-Office Department.

Let me call your attention to one illustration. On page 5, in line 3, we have the following provisions: "Superintendent of delivery, superintendent of mails, superintendent of money orders, and superintendent of registry—four—at not exceeding $3,200 each."

Then follow other provisions for similar officials at lower salaries. There is nothing in this bill which says to what offices those officials are to be assigned. As a matter of fact, these four officers receiving the maximum amount of $3,200 are all assigned to the New York office. Similar officials assigned to the Chicago office receive only $3,000. There is no good reason for this discrimination growing out of either the character of the services rendered or the amount of business transacted in the Chicago office. Chicago is a close second to New York in gross post-office earnings. The seventeen largest offices in the country with their gross receipts are:

Gross revenue 1905:

New York, N. Y	$15,486,462
Chicago, Ill	11,648,295
Philadelphia, Pa	4,891,958
Boston, Mass	4,501,163
St. Louis, Mo	3,558,691
Brooklyn, N. Y	2,016,869
Cincinnati, Ohio	1,871,731
San Francisco, Cal	1,655,842
Pittsburg, Pa	1,622,343
Baltimore, Md	1,580,116
Cleveland, Ohio	1,498,551
Kansas City, Mo	1,307,964
Detroit, Mich	1,253,752
Minneapolis, Minn	1,244,142
Buffalo, N. Y	1,188,957
Milwaukee, Wis	1,046,830
Washington, D. C	1,041,863

During the past twenty-five years the receipts of the Chicago office have increased 828 per cent, while the expenses have only increased 716 per cent, as will be seen from these figures which have been furnished me by the very able, progressive, and public-spirited official who now presides over the Chicago post-office:

Year.	Receipts.	Expenses.
1880	$1,254,921.65	$480,191.41
1881	1,450,690.70	507,999.96
1882	1,749,690.88	531,387.09
1883	1,959,902.41	616,552.41
1884	1,992,241.66	670,206.61
1885	1,930,363.71	726,860.15
1886	2,132,058.19	806,404.22
1887	2,225,877.80	833,146.14
1888	2,470,433.11	868,732.01
1889	2,784,534.65	964,418.78
1890	3,126,840.68	1,131,474.24
1891	3,504,730.66	1,285,028.34
1892	3,948,575.70	1,471,930.55
1893	4,672,027.69	1,656,940.26
1894	4,449,898.15	1,819,150.87
1895	4,594,319.36	2,109,425.25
1896	5,204,293.67	2,197,863.51
1897	5,138,414.45	2,242,936.92
1898	5,641,854.87	2,332,772.36
1899	6,133,551.79	2,439,310.95
1900	6,609,218.72	2,591,219.77
1901	7,703,357.24	2,804,942.74
1902	8,576,456.11	3,035,782.69
1903	9,611,569.51	3,475,073.26
1904	10,516,700.41	3,735,332.20
1905	11,648,547.36	3,922,052.64

As will be seen, the receipts of the Chicago office have more than doubled in the past seven years. The salaries in the Chicago office should in all cases be on a par with the salaries in the New York office. But in some instances the discrepancy is very great. Take another illustration in addition to the one that I have just given. Among the twenty-five officials provided for in the last paragraph, on page 5, you will notice one private secretary, at $2,400. There is nothing in this bill to show where that secretary is employed. As a matter of fact, this one private secretary at $2,400 is assigned to the New York office, while the private secretary to the postmaster at Chicago receives only $1,700. Now, I not only know something of the work of the Chicago office, but I personally know all about the character and ability of the private secretary in that office. There is no better posted or more efficient employee in the Government service. If the private secretary in the New York office is equal in knowledge and ability to the private secretary in the Chicago office he is well worth $2,400, but there is no reason why the Chicago official should not receive the same amount. There is, I repeat, nothing in this bill to show why the $2,400 secretary should be assigned to New York and the $1,700 secretary to Chicago.

When it comes to the clerks this method of appropriation and this method of designation often result before the end of the fiscal year in disclosing the fact that some office is insufficiently provided with clerks for the balance of the year. That is the present case with the Chicago office; therefore the necessity for this amendment. It is and should be the policy of this Government to so appropriate for clerks at all the offices, including the Chicago office, that they may work the various offices upon as nearly as possible an eight-hour basis. That is the recognized policy of the Government, and it should be our function to co-

operate with this policy and to appropriate, so far as possible, so that the clerks in the offices may be assigned and work upon the eight-hour basis. The necessities in the Chicago office some weeks ago compelled the insertion of an amendment in the deficiency bill while pending in the Senate, so as to provide 250 clerks for the Chicago office during the balance of this fiscal year. The appropriation was made in accordance with this amendment in the Senate, generously conceded and agreed to by the conferees on the part of the House as soon as the facts were made known to them. When, however, it came to the distribution and designation of these clerks, instead of 250 going to Chicago, where they were needed, only 135 of these additional clerks have been assigned to the Chicago office. At the present time the distributors in the Chicago office are working substantially on a ten-hour schedule. In other words, during the past six months the distributers in the Chicago office have been working as high, some of them, as twelve hours a day, bringing, as I say, the average up to nearly ten hours. It is to remedy this deficiency in the present force at Chicago that I offer this amendment, so that during the balance of this fiscal year we shall have substantially in the Chicago office what was intended when that amendment to which I have referred was passed by the Senate and agreed to by the House conferees. The present postmaster is directing great energy and unsurpassed business ability to administer the affairs of his great office as efficiently as can be done with the force at his command. It is for us to appropriate for a sufficient number of clerks to keep all the post-offices in the country on an eight-hour basis. For this reason I urge the adoption of this amendment to meet the present emergency in the Chicago office, in compliance with the request of the Chicago postmaster.

Mr. MADDEN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Chicago moves to strike out the last word of his colleague's amendment.

Mr. MADDEN. Mr. Chairman, I desire to say the total number of clerks throughout the country in the Post-office Department is 25,496. Of this number 2,526 are in the Chicago office.

The average time worked by the men in the Chicago office is nine hours and forty minutes.

The number of hours overtime equals 309 men daily on an eight-hour basis.

Chicago's postal business has grown from $1,254,921.61 in 1880 to $11,648,547.36 in 1905.

The expense has grown from $480,191.41 in 1880 to $3,922,-652.64 in 1905.

The salaries paid to the men employed are on the average much less than they should be. This is particularly true as to the men who are engaged as distributers in the mailing division, who only get $600 per annum with no fixed ratio of advancement.

The distributers are the backbone of the service, yet they have been overlooked to a greater extent in the matter of promotion than any other class of the service.

Requests are seldom, if ever, received for transfer from any other department of the post-office to the mailing division, where the distribution of transit mail is performed. On the other hand, 60 per cent of the men in that division have filed applications for transfer to the money order, registry, or city divisions.

The class of service these men render is worthy of much better compensation than they now receive. They should start into the service at $800 and secure steady promotion, if they are qualified to remain in the service, until they reach $1,200.

It is only in this way the Government can hope to secure good men and retain them.

The arrangement for promotions in the bill now pending would give the Chicago office 539 promotions during the coming year, whereas it should have at least 1,057.

The salaries paid to the superintendents in the New York post-office are $3,200, while those of Chicago are only $3,000.

The salary of the private secretary to the postmaster at New York is $2,400, and that at Chicago, which is in the same class, is $1,700.

Some idea of the volume of the business of this office may be ascertained when it is understood that on the 1st of April 2,500,-000 pieces of mail passed through the office, and that in the money-order division 64,396 transactions, amounting to $1,510,-550.69 took place on April 6.

On the preceding day 58,569 money orders were paid, amounting to $396,629.41, and 800 were issued, amounting to $11,344.50, while certificates of deposit issued numbered 768 and amounted to $435,190.

The average time of the clerks engaged in the payment of money orders received from the banks is twelve hours and thirty minutes.

Such long hours and intense application show how easily the situation of the money-order division may become critical. A great number of the men are absent on sick leave, thus throwing their work on the others, who have to work overtime each day.

Something certainly should be done to supply that division with a sufficient number of regularly trained clerks to handle this business. The work must be cleaned up every day. It can not be let to run behind.

The same condition prevails throughout the entire post-office. Three hundred and sixty-two additional men are absolutely necessary to do the work as it should be done. Some time since 130 men were allowed. This number does not meet the present needs.

Chicago will be credited with only 10 per cent of whatever number of clerks are allowed to the country, according to the rule of the Post-Office Department.

The largest mail-order houses of the world are situated at Chicago. They receive postage stamps to the amount of $3,500,-000 annually in payment for goods purchased by country customers. All the postal business of these houses is transacted in Chicago. The Chicago office does not receive credit for this volume of business, as you will readily see, because of the fact that the postage is purchased elsewhere.

If this $3,500,000 revenue from postage were added to the receipts of the Chicago office it would bring them up to $15,000,000.

If, in addition to that, Evanston, Lake Forest, Highland Park, Waukegan, Oak Park, River Forest, Morgan Park, and a number of other post-offices covering a radius of 20 miles around the city, were made substations of the Chicago post-office, the revenues would reach probably $16,500,000.

Practically all of the business from these offices is transacted at the Chicago office. It gets no credit for the work it does. The thirty-nine great trunk lines entering into Chicago and reaching into every section of the country makes the Chicago office a point of distribution greater than any other city.

It calls for more work there, and should receive more help on that account.

All of the post-offices in the outlying towns surrounding New York are substations of the central office, and all the postage purchased at these stations is credited to the New York post-office.

If this were done in Chicago, the revenues of the Chicago office would be the largest in the United States.

The number of railroads, as I said before, entering and departing from Chicago make the field of distribution much wider from that office than from any other office in the country.

Unless sufficient help is allowed to transact the business properly other sections of the country must suffer on account of the failure to make appropriations, for if the mail is not started on time it will not reach its destination as early as it should.

The growth of the office is beyond conception or description, and no one can realize it without having made a thorough investigation of it.

In recommending an increase in salary for distributers in the Chicago post-office, attention is called to the fact that their average salary is now lower, their work is harder, their hours are longer, and their night work is more plentiful than it is for other employees of the post-office.

The distributers are the backbone of the service, yet they have been overlooked to a great extent in the matter of promotion into the higher grades.

Requests are seldom if ever received in this office for transfer from other departments of the post-office to the mailing division, where the distribution of transit mails is performed. On the other hand, 60 per cent of the distributers have filed applications for transfer to the delivery, money order, or registry divisions. If it is true that a transfer from the mailing division is desirable for the clerks, why not reverse the order of things and relieve the conditions which bring about these numerous requests for transfers? Under the present system there is little inducement held out to the distributers. As a result, resignations are frequent, and there is a good deal of unrest and discontent among the men.

Failure to appreciate the expert work performed by distributers simply means failure to understand to what extent schemes of to-day are complicated. Changes in railway schedules bring about wholesale changes in schemes, as evidenced in the weekly bulletin of general orders. In addition to the labor involved in originally memorizing the location of several thousand post-offices, it frequently requires several hours of hard study to memorize scheme changes which are published in one issue of the bulletin, of which fifty-two numbers

are published each year. A clerk must not only qualify on a scheme before he becomes a distributer, but he must memorize every detail of weekly scheme changes which at times amount to several hundred items, and he must also report periodically for review examinations.

It is no easy task to memorize the consecutive dispatches for twenty-four hours for every post-office located in States containing from 1,500 to 5,000 post-offices, and in addition to keep posted on numerous scheme changes.

The post-office distributer works every day in the year except on an occasional Sunday. Unlike the railway postal clerk, he has no time set apart for study. Nevertheless, he must memorize his schemes, and he does it under difficulties which few people fully understand.

There are exceptions, of course, in certain clerical positions in the post-office, but among the rank and file of the clerks the distributers are the experts of the service, yet at the present time they do not receive as high salaries on an average as other employees of the office. It has been said that the bookkeeping clerks, who receive a larger salary than the distributers, hold more responsible positions. That may be true in a few instances, but not as a general proposition. The distributer accepts a responsibility every time he throws a letter or daily paper or market report, and he throws more than 15,000 pieces of mail every night he is on duty. In these days if a distributer missends a letter or daily paper the addressee frequently makes complaint, and under the present system of checking and postmarking it is nearly always possible to locate the clerk who is responsible for making the improper dispatch. If it were not for the fact that our distributers are experts who seldom make an error, the officials of the service would be loaded down with complaints from the public.

The salaries paid to these valuable men are out of all proportion to the services rendered. Under the present system the salary is $600 per annum for beginners. This grade of pay does not and will not in these prosperous times attract a good class of men. The minimum salary should be raised to $800 per annum, and promotions, which are now slow and uncertain, should be provided in a manner that will induce trained men to remain in the service.

The records of the Chicago office show that there are 589 qualified distributers in the mailing division, and out of that number there are but 46 in the $1,200 grade, and not one of the distributers in this grade has been in the service less than fifteen years. Some of them have been in the service from twenty-five to forty years, as evidenced by the following table showing the number of distributers and length of service performed before entering into the grade named, as well as total length of service:

Grade.	Number of clerks.	Service before entry into grade.	Total length of service.
		Years.	*Years.*
$1,200	46	13 to 18	15 to 42
$1,100	30	8 to 14	10 to 26
$1,000	71	4 to 13	5 to 23
$900	102	3 to 13	4 to 20
$800	199	2 to 11	2 to 15
$700	141	1 to 3	1 to 5
Total mailing division distributers.	589		

In connection with the above table, please bear in mind—

First. The great majority of these men work at night.

Second. Their hours of duty have been extended anywhere from eight to twelve hours daily during the past few years, the average per day per man for the past six months being close to ten hours.

Third. Practically all of the distribution is performed under artificial light, a great deal of heavy lifting is involved, and these men can never sit down at their work. They are on their feet at the case from start to finish of tour of duty.

Fourth. In addition to long tours of duty at the office, these men must devote from one to three hours daily at home to the study and correction of schemes of distribution.

Upon arrival at the post-office for his first day's work a scheme is handed the new appointee, and he is informed that he must memorize the location to counties and routes of several thousand post-offices. For example, he must learn that Rockdale, Iowa, is in Dubuque County, and that a piece of mail addressed to Rockdale must be forwarded as follows, according to the time of receipt on the case:

Illinois Central, train 5, departing at 2.55 a. m.

Illinois Central, train 3, departing at 8.20 a. m.

Chicago and Great Western, train 9, departing at 8.45 a. m.

Chicago, Milwaukee and St. Paul, train 5, departing at 9 a. m.

Chicago, Milwaukee and St. Paul, train 9, departing at 1.30 p. m.

Illinois Central, train 31, departing at 3.45 p. m.

Chicago, Burlington and Quincy, train 47, departing at 6.30 p. m.

Chicago and Great Western, train 5, departing at 11 p. m.

In other words, he must memorize the county and most available route for dispatch at any hour of the day of mails addressed to any post-office located in the State or group of States to which he may be assigned. He is also informed that this scheme must be memorized at home, or at least at some time and place other than during his tour of duty in the post-office.

A great many men become discouraged at once with a prospect of from one to three hours of post-office work at home each day in addition to a regular tour of duty, which it is presumed by the uninitiated extends over an eight-hour period. However, the real discouragement comes later on when he finds, through a few days of actual experience, that tours of duty extend anywhere from nine to twelve hours and that there is no prospect of obtaining day work for years to come. He makes a few acquaintances on the floor, and after making a few brief inquiries he finds that he is working side by side with men who have been in the service from fifteen to twenty-five years and that the salaries of these veterans of the service run from $900 to $1,200 per year, comparatively few receiving the maximum salary. He finds, too, that these men are still working nights most of the time, with no prospect for permanent day work.

In the meantime he has taken another look at the complicated scheme upon which he must be examined within sixty days, and promptly hands in his resignation in order to accept a position where at least the hours are reasonable, the day work plentiful, the scheme study out of it, and the chances for advancement better than in the post-office. During the past few months the resignations have been unusually numerous, averaging about forty per month in the mailing division alone. Upon inquiry it has been ascertained that the men frequently resign to better their condition, as they see it, by accepting jobs as teamsters, street-car conductors, grocery clerks, or laborers at the stock yards. The tendency to resign is not confined entirely to the newcomers. During the past week one of the most experienced and competent men in the post-office tendered his resignation, and the only reason advanced was that he could do better elsewhere. This man has been in the service sixteen years; he has immediate supervision over a force of 700 men, and yet his salary is but $1,200 per annum. This man, as well as hundreds of others who are receiving a great deal less salary, goes home at 4 o'clock in the morning, all of them completely tired out. Many of them settle down in a corner of the "owl" car and proceed to study their schemes on the homeward trip. They arrive at home too early for a reasonable breakfast hour. They go to bed when the rest of the world is getting up, and they get out of bed in the middle of the afternoon, too late for the noon lunch hour, if the comfort of other members of the family be considered. They leave their homes at about 4 p. m. for another grind in the office. They have no evenings at home with their families. They have little or no amusement or recreation. They work nights and try to sleep days. Their life is made up principally of picking up or distributing letters and letters, throwing papers and packages and packages and papers, lifting sacks and sacks of mail, and studying schemes and schemes. The monotony of their lives is relieved only by the receipt of frequent official reprimands, demerit charges, and fines, or by an occasional appearance before the advisory board. To start with, they receive salaries of $660 per year for all of this discomfort and hardship, but if they prove to be men who would be worth $100 per month in other lines of business, they may be promoted and obtain as much as $800 or $900 per annum in from two to five years. The promotions above the latter grade are few and far between, as evidenced by the following table, showing the number of distributers promoted last year in the grades above $900:

Grade.	Number in grade.	Number of promotions in grade.
$1,000	74	4
$1,100	32	2
$1,200	46	None.

As a matter of fact, the conditions are such that the best men quietly drop out of the service and get a better position elsewhere, but a few of those who hold on may reach the $1,200 grade as distributers if they remain in the service a dozen years

or more. The records of this office indicate, however, that only a comparative few reach that grade, and these few have been in the service all the way from eleven to forty-two years.

Mr. OVERSTREET. Mr. Chairman, I have no objection to that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word, for the purpose of asking the gentleman who offered the amendment a question. Does this take out of the Department the discretion in the appointment of these clerks?

Mr. BOUTELL. Simply for that addition to the clerical force at Chicago of 100 for the balance of the fiscal year.

Mr. MURDOCK. To that extent it takes it out of the discretion of the Department?

Mr. BOUTELL. It does.

Mr. KENNEDY of Nebraska. I would like to get some information from the chairman of the committee.

The CHAIRMAN. About the amendment offered by the gentleman from Illinois?

Mr. KENNEDY of Nebraska. About the paragraph.

The CHAIRMAN. The question first is on the amendment offered by the gentleman from Illinois. The Chair will recognize the gentleman after the question is taken on the amendment.

The question was taken; and the amendment was agreed to.

Mr. KENNEDY of Nebraska. I move to strike out the last word. I would like to ask the gentleman from Indiana how many clerks there are altogether in all of the post-offices in the United States?

Mr. OVERSTREET. Do you mean all the post-offices of the first and second class?

Mr. KENNEDY of Nebraska. Well, take them.

Mr. OVERSTREET. First and second class clerks. On the 10th day of March, 1906, there were employed in the United States, in first and second class post-offices, including clerks in charge of stations, 26,988.

Mr. KENNEDY of Nebraska. Can the gentleman state how many are receiving a thousand dollars per annum?

Mr. OVERSTREET. I did not hear the question. I will yield to the gentleman from Wisconsin, who is on the committee, and who heard the question.

Mr. STAFFORD. There were 2,726 receiving $1,000 compensation on January 10 last.

Mr. KENNEDY of Nebraska. Will the gentleman please give me and give the House the number receiving $900 per annum, $800 per annum, $700 per annum, and $600 per annum in detail?

Mr. OVERSTREET. Well, the gentleman does not mean detail by offices?

Mr. KENNEDY of Nebraska. No, sir.

Mr. OVERSTREET. On the 10th day of March, 1906, there were employed in offices of the first and second class, at the grade of $600, 4,089; at the grade of $700, 3,600; at the grade of $800, 4,118; at the grade of $900, 2,679.

Mr. KENNEDY of Nebraska. I would like to ask the gentleman from Indiana whether or not he thinks that these clerks are receiving adequate compensation for the services they render the Government?

Mr. OVERSTREET. Well, Mr. Chairman, that involves the whole problem of the general increase of salaries of clerks of these grades. I am inclined to think some of them are not; I am not prepared to say that all of them are not.

Mr. KENNEDY of Nebraska. I will ask the gentleman from Indiana if it is not a fact that the salaries of these clerks are not increased because the revenues from the Post-Office Department now show an annual deficit?

Mr. OVERSTREET. I can not answer that in a word. The condition of the revenues with respect to the postal service has something to do with the lack of consideration of general increases of salaries. The financial condition of the Department, showing as it does under existing conditions a deficit of approximately fourteen and one-half million dollars, necessarily causes caution on the part of the committee in recommending general increases.

If there were a surplus, and if the general increases of the service, by reason of new facilities, were properly cared for, I am inclined to think that there would be a disposition to increase the salaries of a number of the clerks. But permit me to go a step further and say this, that the urgency upon the part of Members for increases of salaries of clerks is paralleled by the urgency of other Members for an increase of salaries of carriers, both city and rural, and by still others for increase of salaries of mail clerks. So that the committee, considering the whole field, must take into account the payment for those various grades of employees. Therefore it would be necessary to have a fuller understanding of the financial condition of the Department with respect to all these grades before answering specifically with respect to only one.

Mr. KENNEDY of Nebraska. Does the gentleman believe that clerks and employees in the Post-Office Department should be paid salaries equal to what they can earn in private employment?

Mr. OVERSTREET. If not, I think they usually resign and take private employment.

Mr. KENNEDY of Nebraska. Is it not true, Mr. Chairman, that in that way many of the post-offices throughout the country are losing some of their most efficient clerks?

[The time of Mr. KENNEDY of Nebraska having expired, by unanimous consent it was extended five minutes.]

Mr. OVERSTREET. In answer to the gentleman I will say, Mr. Chairman, that there have been various reports to the effect that some post-office employees resign to take more lucrative positions in private life. I take it that in some instances there are resignations from employments in private life to accept employment under the Federal Government. Just what proportion is the larger of the two classes I am unable to say.

Mr. KENNEDY of Nebraska. Does the chairman of the committee believe that the clerks should be classified as the carriers are classified?

Mr. OVERSTREET. I think, as a matter of practice, that it would be better administration if there should be a classification of clerks; whether just as the carriers are classified I am not prepared to say.

Mr. KENNEDY of Nebraska. But the principle of classification in its application tends to the efficiency of the service, does it not?

Mr. OVERSTREET. I think that is quite true.

Mr. KENNEDY of Nebraska. And if the Post-Office Department showed a surplus instead of a deficit, would the gentleman from Indiana be in favor of classifying the clerks and promoting them from year to year for efficient service?

Mr. OVERSTREET. I should prefer to cross that bridge when we reach it. I am not quite prepared this moment to enter into any statement of opinion that might be binding upon me after full investigation. Naturally, it is easier to provide for promotions with a surplus than it is when you are wrestling with a deficit.

Mr. KENNEDY of Nebraska. Mr. Chairman, I wish to add just a few words. My observation and experience is that the postal clerks are underpaid; that they are paid less than clerks rendering similar services in other lines. I believe, and I think the gentlemen of this House believe, that an increase is denied to these clerks because the Department does not yield sufficient revenue to pay such increase. I want to say, Mr. Chairman, here and now, that this Government is better able, the people at large are better able, to pay out of the general revenues of the Government adequate salaries to these clerks than the clerks are to render services to the Government for inadequate compensation.

And I say also, Mr. Chairman, that when an opportunity arises in this House I shall favor a bill which will place these clerks in the classified service, so that when one of them gets into a post-office at a low salary he may know that efficient service will bring its own recompense.

I withdraw the pro forma amendment.

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

In all, $22,600,000.

Mr. OVERSTREET. Mr. Chairman, I move to strike out, in line 11, page 11, the word "six" and insert the word "seven."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 11, line 11, strike out the word "six" and insert the word "seven."

The amendment was considered and agreed to.

Mr. BENNET of New York. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 11, line 11, after the word "dollars," add: "*Provided*, That such appropriation shall be available only when it shall have been provided that the leave of absence of clerks who have been thirty or more years in the service and have reached the age of 60 years may, in the discretion of the Postmaster-General, be extended for such length of time as he may, in each instance, deem advisable, the service to be performed by a substitute, who shall be paid not more than $600 per

annum, and all sums paid substitutes shall be deducted from the salaries, respectively, of the clerks given such leave."

Mr. OVERSTREET. Mr. Chairman, I make the point of order that that is contrary to existing law.

Mr. BENNET of New York. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BENNET of New York. Mr. Chairman, it seems to me that this is a limitation. It provides that in cities of over 250,000 inhabitants the appropriation for clerks is nugatory unless prior to the time when it becomes available such regulations have been adopted in pursuance of the statute, and I want to call the attention of the Chairman to the ruling of the Chairman of the Committee of the Whole in the Fifty-eighth Congress, on the 22d of March, Mr. CRUMPACKER in the chair. But I ought to say in all fairness to the Chair that a day or two after the matter again came up, and Mr. CRUMPACKER, not then in the chair, stated that his former ruling was erroneous. The Chairman [Mr. BOUTELL] considered the question a very close one, and only decided it because the gentleman from California, Mr. Livernash, conceded that it was a change of existing law. That concession I do not make. While the salary is fixed by law, there is no obligation on Congress to appropriate a dollar for the payment of any salary, and we would have a perfect right to wipe out every salary in every city over 250,000.

The adoption of this amendment, if no other legislation is adopted, would bring about that result, and therefore it is a limitation, and not a change of existing law.

Mr. OVERSTREET. Mr. Chairman, under the statute passed October 1, 1890, chapter 1260 of the Revised Statutes, page 878, provision was made for leaves of absence to clerks employed in the first and second class offices. That statute directs the way, manner, and conditions under which these leaves of absence may be granted. This amendment changes that law.

Mr. BENNET of New York. Mr. Chairman, this amendment does not change that law. The clerks in these offices who continue to be employed will still have their leaves of absence and none others, but if this amendment is adopted not a dollar of this appropriation will be available for a clerk or clerk hire in cities over 250,000. It does not change the leaves of absence law at all; it simply nullifies so much appropriation. It is the same as if Congress should have said that in cities over 250,000 there shall be no appropriation for clerk hire during the fiscal year commencing July 1, 1906, and the gentleman would not question for a minute that we would have the right to say that.

Mr. OVERSTREET. It is because it does say something that is contrary to the statute which makes it subject to a point of order. I think it is so plain that there is no need of discussing it further.

The CHAIRMAN. The Chair is perfectly clear on the subject. Rulings upon the subject of limitation have not been consistent by any manner of means; they have gone through something of an evolution. The later decisions have tended toward the point indicated, that where the proposed limitation might be construed by the executive or administrative officer as a modification of statute, a change of existing law, it could not be held to be a limitation. The Chair's belief is that the rulings along that line are correct, and so the Chair is constrained to sustain the point of order.

Mr. FLETCHER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 11, line 11, strike out "$22,600,000" and insert "$23,732,000."
"And the Postmaster-General is hereby instructed to increase by $100 each the clerks in the several classes from $600 to $1,300, as follows: All of the $600 and $700 clerks, 50 per cent of the $800 clerks, 25 per cent of the $900 clerks, 20 per cent of the $1,000 clerks, 15 per cent of the $1,100 clerks, 10 per cent of the $1,200 clerks, and 5 per cent of the $1,300 clerks."

Mr. OVERSTREET. Mr. Chairman, I reserve a point of order on that.

Mr. FLETCHER. It seems to me, Mr. Chairman, that every Member of the House understands the situation as well as I do. It seems so meritorious, and it is so well known that the clerks are underpaid, that under the discussion that has already taken place I did not think the chairman of the committee would interpose this point of order. I should think it is so meritorious a matter it would be passed without objection, and I hope the gentleman will withdraw any objection to it and let it pass.

Mr. OVERSTREET. Mr. Chairman, the salaries of these clerks now in the service, fixed in the last appropriation bill, would be changed by an increase of appropriation amounting to $1,132,000, distributed as the gentleman's amendment provides. It does not provide in any way for additional clerks, but is limited entirely to the increase of salaries to clerks already in the service. I think it is clearly subject to the point of order.

Mr. FLETCHER. I would like to hear what the Chair says on that subject.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum.

Mr. STEVENS of Minnesota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 11, line 14, after the word "sum," insert: "Hereafter clerks and employees attached to post-offices of the first and second class shall be allowed leaves of absence with full pay for not exceeding fifteen days in any one fiscal year; and where some member of the immediate family of any such clerk or employee shall be deceased or afflicted with a contagious disease and requires his or her care and attendance, or where the presence in the post-office of such clerk or employee would jeopardize the health of fellow clerks or employees, and in exceptional and meritorious cases, where any such clerk or employee shall be personally ill, it may, within the discretion of the postmaster, be extended with pay for not exceeding ten days in such fiscal year: *Provided*, That during such absence of any such clerk or employee his or her duties shall be performed by his or her fellow clerks or employees, and without the temporary employment of other persons or other expense whatsoever to the Post-Office Department: *And provided further*, That no such clerk or employee shall be granted leave of absence until he or she has performed service for one year."

Mr. OVERSTREET. Mr. Chairman, I reserve the point of order upon the amendment.

The CHAIRMAN. Does the gentleman desire to discuss the point of order or the merits of the amendment?

Mr. STEVENS of Minnesota. Mr. Chairman, I admit that the amendment is probably subject to the point of order. I only wish to say that the amendment seeks to do justice to a class of clerks who perform service of great value to the public, and which is inadequately rewarded. This amendment enables these employees to protect themselves and their families, and does not require any additional expense from the Government. The effect of the amendment is only this: Under the law, as just read by the gentleman from Indiana, the chairman of the committee, clerks of the first and second classes are entitled to leave of absence not exceeding fifteen days, as may be arranged by the postmasters by properly distributing the force of their offices without incurring expense and without hiring substitutes. This amendment allows an extension of ten days, in the discretion of the postmaster, in the three following classes: First, where a member of the family of the clerk shall be deceased or shall be seriously ill and needs the personal care and attendance of the clerk; second, where the clerk or some member of his immediate family may have a contagious disease which would jeopardize the health of his fellow-clerks, which fact shall be properly proven to the post-office authorities; and, third, where he himself may be ill so seriously as not to be able to work, which shall also be properly guarded by the postmaster. In these three classes of cases relief should be extended to deserving clerks provided no expense shall be incurred by the Government therefor. We all know that the work of the offices is arranged, and can be so arranged, that the fellow-clerks can do the work for vacations, as now allowed by law, or as may be provided by this amendment. I think the experience of all who are familiar with the work of this class of clerks is that they work considerably more than eight hours per day.

The figures just produced from the Chicago post-office are similar to those in nearly every first and second class office in the country, and certainly in the offices with which I am familiar, are that these clerks work, and work very hard and faithfully, from nine to ten hours each per day. They do this extra work very often in order that there shall be no extra expense to the office when their fellow-clerks receive leave of absence. It very often happens after a clerk has received his fifteen days annual leave that a death or sickness or a contagious disease may occur in his own immediate family, then he is obliged to lay off without any compensation at all. We realize the salaries paid these men are now inadequate even with the increases provided by this bill. Now, in addition, when trouble and care and additional expense come, the Government harshly takes away even the little that they have. In the Departments here in Washington thirty days annual leave of absence are allowed by law to the clerks and thirty days additional may be annually allowed in meritorious cases, in just such cases as are provided by this amendment. Our clerks in the first and second class offices do not get as much pay, must work nearly one-fourth more time per day, work harder, with only one-half as much annual leave for vacation, and no leeway at

all for sickness. Congress is guilty of gross favoritism in these cases against a most deserving class of employees.

In a case such as I have mentioned, there is not a corporation in the United States but what would give a similar leave of absence with full pay to a deserving clerk. This great Government alone seems to be mean and niggardly enough to take the pound of flesh. I am aware this amendment may be subject to the point of order, but it is an opportunity where justice can be done without expense, and I hope very much the Chairman can see his way clear not to insist upon the strict application of the rules. The clerks who do the extra work will see there is no shirking or abuse by their fellow-clerks, and it will give them great courage for their arduous work and confidence that they are cared for as fairly and justly as possible. I trust the point of order will not be pressed.

Mr. OVERSTREET. Mr. Chairman, the amendment is clearly subject to the point of order under the statute which I cited a while ago to the amendment offered by the gentleman from New York, and I wish to call the Chair's attention to another statute which I think comes still more closely to that point.

The CHAIRMAN. The gentleman from Minnesota admits the amendment is subject to the point of order. Does the gentleman from Indiana insist upon his point of order?

Mr. OVERSTREET. I do.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For compensation to substitutes for clerks at first and second class post-offices on vacation, $100,000.

Mr. LITTLEFIELD. I move to strike out the last word. I would like to inquire of the chairman of the committee whether the report adequately states the facts in relation to this.

Mr. OVERSTREET. It depends upon what report the gentleman refers to.

Mr. LITTLEFIELD. The report of the committee reporting the bill. I understand from the report that this bill increases the salaries to the sum of $500,000. That is one lump sum. Is that correct?

Mr. OVERSTREET. In the salaries of the clerks of the first and second class offices.

Mr. LITTLEFIELD. Increasing the salaries of the personnel of the Post-Office.

Mr. OVERSTREET. Of that class.

Mr. LITTLEFIELD. Five hundred thousand dollars?

Mr. OVERSTREET. Yes.

Mr. LITTLEFIELD. I would like to inquire where we can find those increases in the bill.

Mr. OVERSTREET. At the grade from $600 to $1,100.

Mr. LITTLEFIELD. On what pages?

Mr. OVERSTREET. Beginning with page 9, in line 14, and continuing to line 22, page 10. They have all been passed. In this paragraph provision is made by the number provided for for these grades for the promotion of this class.

Mr. LITTLEFIELD. Now, I understand, Mr. Chairman, that the bill then carries $500,000 increase in salary.

Mr. OVERSTREET. Of these clerks.

Mr. LITTLEFIELD. Yes; and then in addition to that I make $3,750 increase in post-office inspectors' salaries?

Mr. OVERSTREET. That is to equalize the salaries of fifteen post-office inspectors in charge.

Mr. LITTLEFIELD. It is an increase, in fact?

Mr. OVERSTREET. That is right.

Mr. LITTLEFIELD. Now, I would like to inquire further how many offices are created in this bill in addition to the existing personnel which become a charge upon the Treasury?

Mr. OVERSTREET. There are no new offices created, but there is an additional force provided for in the various grades necessitated by the increased volume of business.

Mr. LITTLEFIELD. How much does that aggregate?

Mr. OVERSTREET. The total increase in dollars, as the gentleman has mentioned it as a charge upon the Treasury, incident entirely to the additional employment of post-office clerks, amounts to $1,600,000. The additional increase in the appropriation due to the increase in the number of letter carriers in the cities, occasioned by estimated increase of volume of business, is $931,425. The increase of appropriation incident to the estimated increase of railway mail clerks, occasioned by estimated increase in the volume of business, is $822,000, while the increase in the rural free-delivery service is $3,080,000, making a grand total of $6,433,425, occasioned entirely by the estimated increase in the volume of postal service.

Mr. LITTLEFIELD. I will inquire of the chairman of the committee whether the figures indicating an increased charge on account of the personnel of the postal service as $6,433,425 are relatively the same items that appear in the bill for 1906, which aggregated $2,770,000? Are these the same general items?

Mr. OVERSTREET. The gentleman must be in error about being $2,000,000, because the last appropriation bill, for the current fiscal year, carried over $2,000,000 for extension of the rural free-delivery service alone.

Mr. LITTLEFIELD. Well, I have taken the item, $2,770,000, from the analysis made by the clerks, showing the additional offices created and the charge made upon the Treasury.

Mr. OVERSTREET. That is for the year 1906?

Mr. LITTLEFIELD. Yes. What I want to know is whether this is a similar item or if it probably includes other items?

Mr. OVERSTREET. There is evidently some mistake, because I know it would be more than that, because in each one of these several classes of employees—the clerks in the first and second class offices, the railway mail clerks, and the city letter carriers and the rural delivery carriers—there is also an increase in the current fiscal year, and I am quite sure that the total incease would be much more than $2,000,000.

Mr. LITTLEFIELD. These items are not parallel with the analysis which was given me by the Clerk?

Mr. OVERSTREET. They can not be parallel. I do not know just where the error is.

Mr. LITTLEFIELD. I would like to make this further inquiry of the chairman of the committee: The increase in the salaries in this bill is $503,750, against the total increase for salaries of all the Departments for last year of $41,475; that is to say, in your post-office appropriation bill you have increased the salaries ten times as much as the net increase of salaries during last year, for 1906—I see my friend shakes his head—but this is the analysis given me by the Clerk.

Mr. OVERSTREET. I am not shaking my head.

Mr. LITTLEFIELD. The gentleman from New Jersey is shaking his.

Mr. OVERSTREET. I do not know what the facts may be relative to the increase in salaries in other Departments of the Government. The increase of half a million dollars for clerks in the first and second class post-offices is limited to the low grade of clerks, and is provided for the purpose of avoiding resignations of efficient clerks, who are encouraged by men in civil life to leave the Government service for more lucrative positions. I think that the increase in the salaries of these low-grade clerks to the extent of $500,000 is fairly justified upon that ground. Eliminating that $500,000, then the total increase of salaries to clerks now in the postal service is a little over $3,000, according to the gentleman's own figures.

Mr. LITTLEFIELD. Now, I would like to inquire how it happens that in this particular it becomes necessary to make that enormous increase?

Mr. OVERSTREET. My friend forgets that similar provisions have been carried in other bills every year. There was in former bills an annual provision of $1,000,000 for this very purpose, and the committee in recent years has been recommending a far less sum. If no provision were made, Mr. Chairman, for the increase of the salaries of the low-grade clerks in the post-offices of the first and second class, there would unquestionably follow a wholesale resignation of efficient clerks, greatly to the impairment of the service.

Mr. LITTLEFIELD. This is an inquiry I want to make: Is there found any difficulty up to date in getting the service of clerks of that grade because of the rate of salary?

Mr. OVERSTREET. Oh, you might get clerks for even less salaries than provided by law, but there is found great difficulty in holding efficient clerks in these low grades, carrying, as they do, such small salaries.

Mr. LITTLEFIELD. Can the gentleman advise the committee how many clerks have left the service of the Government on account of the inadequate salaries?

Mr. OVERSTREET. I can not, definitely, but I can say that in the large offices in such cities as the first ten cities in the country, beginning with New York, that there is constantly a complaint, not only by the Department through postmasters, but upon the floor of the House by Representatives from these cities, that the salaries provided for these low-grade clerks is not sufficient to encourage them to remain in the service.

Mr. LITTLEFIELD. I should like to inquire if the hearing before the Post-Office Committee disclosed any details upon that point.

Mr. OVERSTREET. No details; it is not a new matter to the committee.

Mr. LITTLEFIELD. Except in a general way, that complaint is made. Now, I suppose a little later we will have another bureau coming in and wanting their salaries raised in order to make them proportionate to these salaries.

Mr. OVERSTREET. The gentleman forgets that when you start a clerk in a post-office in New York, St. Louis, or Chicago, or any of the larger cities of the Union, at the grade of $600,

expecting that clerk by reason of application to duty and the enlargement of his experience to ripen into a clerk of sufficient capacity to become a distributer, necessitating intelligence beyond the ordinary intelligence of the average clerk, you must, if you expect to hold him, make some provision by way of incentive to remain in the service, by holding out the encouragement of an additional compensation.

Mr. LITTLEFIELD. This $100 extra, for instance?

Mr. OVERSTREET. This $100 extra.

Mr. LITTLEFIELD. That applies to all clerks coming in hereafter in that same grade?

Mr. OVERSTREET. It does not unless provision shall be made for it.

Mr. LITTLEFIELD. Is this simply a promotion of clerks, or is it an actual increase of salaries?

Mr. OVERSTREET. A promotion. As the gentleman will find in reading the report to which he has referred, 50 per cent of the $600 clerks in the service, and 40 per cent of those in the grade of $700, 20 per cent in the $800 grade, and 5 per cent in the nine, ten, and eleven hundred dollar grades, get this promotion.

Mr. LITTLEFIELD. Is $600 the lowest?

Mr. OVERSTREET. That is the lowest grade of clerks in first-class offices, excepting that when they first enter the service on what is termed a probationary period, they enter at $500. And there are clerks in charge of stations, and clerks of that kind, who receive less than $600.

Mr. LITTLEFIELD. But the lowest grade of regular clerks is now $600?

Mr. OVERSTREET. The lowest grade in second-class offices is $500 and the lowest grade in first-class offices is $600.

Mr. LITTLEFIELD. You do not increase the salary of any $500 clerk, then?

Mr. OVERSTREET. Oh, yes; by reason of the promotion of the $600 clerks, leaving vacancies in that class, which would permit of the promotion of some $500 clerks.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LITTLEFIELD. I want to get some information, and I ask unanimous consent to extend the time for five minutes.

There was no objection.

Mr. LITTLEFIELD. Now, I want to put this question: What is the grade of a $600 clerk?

Mr. OVERSTREET. He is in what is called the $600 grade.

Mr. LITTLEFIELD. The lowest grade?

Mr. OVERSTREET. That is the lowest grade in first-class offices.

Mr. LITTLEFIELD. From now on does he get $700?

Mr. GARDNER of New Jersey. If he is promoted he does.

Mr. OVERSTREET. I did not understand the last question.

Mr. LITTLEFIELD. The lowest grade of clerks in a second-class post-office gets $500 now?

Mr. OVERSTREET. That is correct.

Mr. LITTLEFIELD. And the lowest grade in a first-class post-office gets $600?

Mr. OVERSTREET. Yes.

Mr. LITTLEFIELD. From now on does this lowest grade clerk in a first-class office get $700?

Mr. OVERSTREET. No.

Mr. LITTLEFIELD. There is no change, then, in the salary of that grade?

Mr. OVERSTREET. No, sir.

Mr. LITTLEFIELD. Then this is simply a promotion.

Mr. OVERSTREET. Absolutely a promotion of 50 per cent of the clerks who receive $600 and 40 per cent of the clerks who receive $700, and so on, according to the statement in the report.

Mr. LITTLEFIELD. Is the committee to understand, then, as a matter of fact, there really is not any increase of salary; that all this means is that a second-grade clerk gets up to the next grade, and so on?

Mr. OVERSTREET. A certain per cent of the clerks.

Mr. LITTLEFIELD. A certain per cent?

Mr. OVERSTREET. Yes.

Mr. LITTLEFIELD. And that you continue the grades at the same rate of salary?

Mr. OVERSTREET. Exactly so.

Mr. LITTLEFIELD. And that sort of an appropriation has been carried in your bill right along, all the while, year after year?

Mr. OVERSTREET. Yes; in former years to the extent of a million dollars a year.

Mr. GARDNER of New Jersey. Last year that item was approximately $375,000 in this bill.

Mr. LITTLEFIELD. As I understand the gentleman now, I must frankly submit that the reading of the report clearly gave the erroneous impression I have had, and I will read it so that the gentleman may see:

In fixing the appropriation for pay of post-office clerks provision is made for *an arbitrary increase of salary of $100 each of 5,000 clerks* of the lower grades, in order to stimulate interest in the service and to avoid resignations of efficient clerks who become discouraged by insufficient pay.

Now, I supposed that that meant what it says.

Mr. OVERSTREET. It increases the pay of 5,000 individual men.

Mr. LITTLEFIELD. Yes; but it does not increase the salaries of these grades, but they go up a grade; they are promoted, but in any proper sense it does not increase the salary at all. The grades in which they are now serving receive the same salary after this bill passes that they receive now, but when they step up a grade and render more efficient service they get the salary attached to that grade.

Mr. OVERSTREET. The gentleman is correct.

Mr. LITTLEFIELD. So that in any proper sense it is not an increase of salary.

Mr. OVERSTREET. It is not an increase of salary. They get an increased compensation because they pass to another grade.

Mr. LITTLEFIELD. With that explanation I have no criticism to make.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn.

There was no objection.

The Clerk read as follows:

For unusual conditions at third and fourth class post-offices, $75,000.

Mr. OVERSTREET. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 12, strike out lines 3 and 4 and insert "for unusual conditions, second, third, and fourth class post-offices, $100,000."

Mr. OLMSTED. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amend the amendment by inserting at the end of the amendment the following: "And for extraordinary conditions, $150,000."

Mr. STAFFORD. Mr. Chairman, I raise the point of order on the amendment to the amendment.

The CHAIRMAN. Does the gentleman desire to discuss the point of order?

Mr. STAFFORD. The point of order is that it is new legislation. There is no provision whatever in the appropriation bills of prior years for extraordinary conditions at any post-office.

Mr. OLMSTED. There is no provision in existing law for unusual conditions, and therefore the amendment to the amendment is in order if the amendment itself is in order.

Mr. BUTLER of Pennsylvania. I would like to ask my colleague what sort of conditions he is providing for?

Mr. OLMSTED. If the gentleman will withhold the point of order——

Mr. STAFFORD. I will reserve it.

Mr. OLMSTED. The paragraph which is now under consideration appropriates for unusual conditions in certain offices. My amendment provides for extraordinary conditions. I do not know exactly what is meant by unusual conditions in a post-office. The term "unusual" signifies something uncommon—something not usual. Now, extraordinary conditions means more than uncommon. It signifies something rare. If only one-quarter of the clerks in an office should attend the baseball game, that would be unusual. But if none of them went, that would be extraordinary. [Laughter.] But seriously, Mr. Chairman, the object of my amendment was that I might ask the gentleman for some information.

Mr. BUTLER of Pennsylvania. But is the gentleman from Pennsylvania trifling with us? I asked him, if he is going to insist on his amendment, if the adjective "rare" refers to the clerk or the post-office?

Mr. OLMSTED. To the condition.

Mr. POWERS. Mr. Chairman——

The CHAIRMAN. Does the gentleman wish to discuss the point of order?

Mr. POWERS. No, sir.

Mr. FITZGERALD. I wish to inquire, Mr. Chairman, if there is any authority in the second-class offices——

Mr. OLMSTED. Mr. Chairman, I shall probably withdraw the amendment to the amendment when I have had an explanation from the chairman of the Post-Office Committee of the original proposition. What I really desire is to know what unusual conditions can exist to justify any such appropriation at all.

Mr. OVERSTREET. Mr. Chairman, in explanation of the

amendment, which I think will satisfy the gentleman from Pennsylvania, I will say that frequently there occurs, particularly in the mining camps of the West, and occasionally in Alaska, such an increase in the number of people who assemble there to prosecute the mining investigations that the office suddenly rises from one class to another, and on these occasions of extraordinary prosperity it is quite difficult for the Department to determine whether these conditions are permanent or not. They may appear for a few weeks, or months, or a few years, and may appear to be a permanent condition; but while post-offices increased in volume under stimulus of that kind, the mines may give way and become exhausted and the conditions removed, and hence it has been found difficult to make ample provision by way of appointing clerks to meet the increased volume of business at these offices. This situation has appeared at Tonopah and Goldfield, in Nevada, where cities have grown to many thousands, and the volume of postal business has rapidly increased. The increased volume of the postal business was such that it was utterly impossible for the limited number of clerks to care for it. This necessitated the patrons of the offices standing in line for hours at a time in order to get their mail.

Mr. OLMSTED. Will the gentleman yield?

Mr. OVERSTREET. In a moment. But, Mr. Chairman, the committee felt that $75,000 was sufficient, and that at the time was thought to be sufficient under the recommendation for the Department, except for one additional condition which developed, notably in these Nevada camps. That is by reason of the opportunity for better compensation in business outside of the offices it has been impossible to employ clerks at the low grade of salaries authorized by law, even for a short period of time, and that is regarded as an unusual condition, and under that provision the Department would have authority to employ additional clerks and temporarily to pay the higher price for those employed.

Mr. FINLEY. I do not know I fully caught the gentleman's statement, but did the committee not have before it the Tonopah and Goldfield proposition when they estimated the $75,000 item?

Mr. OVERSTREET. I was going to explain that, Mr. Chairman.

Mr. FITZGERALD. Will the gentleman yield for a second? Does he gentleman's explanation as to the difficulty of obtaining clerks explain the change in language?

Mr. OVERSTREET. Yes, sir; and the reason, I will state to the gentleman from South Carolina, for the increase was on account of the fact that after the bill was prepared and the committee had adjourned statements were brought to my attention as chairman, both officially and unofficially, that in one or two cases of these mining camps the office had really risen to the second class, not only the third and fourth, so the item was increased $25,000 more. I do not think they will need the $150,000 called for by the suggestion of the gentleman from Pennsylvania.

Mr. OLMSTED. Do I understand the object of this appropriation is to cover cases where temporarily the provisions of the office might be such as to entitle them to a higher grade and a larger appropriation?

Mr. OVERSTREET. Not necessarily that, because offices in Indiana or Pennsylvania, by reason of the natural growth of business and population, might in a few months ripen into the next higher grade, but could not under the law be designated as such until a fixed date. This is to meet an unusual condition at offices like mining camps and in the great West where, by reason of sudden influx of population, the office has suddenly increased in business.

Mr. OLMSTED. But not permanently?

Mr. OVERSTREET. Certainly.

Mr. OLMSTED. Mr. Chairman, these conditions are extraordinary, and I therefore withdraw my amendment, so that the gentleman's amendment may come before the House without embarrassment to him.

The CHAIRMAN. The gentleman from Pennsylvania withdraws his amendment.

Mr. POWERS. Mr. Chairman, I move to strike out the last word. I wish to ask one or two questions of the chairman of the committee. Has this provision been in similar language in a similar bill?

Mr. OVERSTREET. Not in exactly the same language. Now, under the current law it has the following language: "For unusual business, third and fourth class post-offices, etc., and provided under the direction of the order of the Postmaster-General any part of this sum may be allowed for clerk hire, rent, fuel, and miscellaneous expenses in Alaska when, by reason of unusual conditions, the interest of the service demands such allowances." The change is made for the reason that unusual business in one part of the country and unusual conditions in Alaska was not quite a satisfactory arrangement of language.

Mr. POWERS. Do you not in your estimate of salaries for postmasters take into consideration the probable increase of the business during the present year?

Mr. OVERSTREET. Oh, certainly. For compensation for postmasters generally that is the basis of the estimate. But this item is simply for emergency purposes.

Mr. POWERS. It is just a contingent fund.

Mr. OVERSTREET. Practically it might be so called.

Mr. POWERS. Now, is there anything in this paragraph that would prevent it from being entirely used for the purchase of furniture or any other thing they sought to use it for at these fourth-class offices?

Mr. OVERSTREET. I think none of it could be used for that under the regulations of the Department, the provision for supplies being definitely fixed in another part of the bill.

Mr. POWERS. Why would it not have been—I only ask for information—quite as well to have given some intimation in the paragraph that it was intended for extraordinary services in Alaska?

Mr. OVERSTREET. Well, unusual conditions must necessarily mean something out of the ordinary; otherwise it would not be unusual.

Mr. POWERS. Well, unusual conditions in third and fourth class post-offices. Have you any statement as to where and what these conditions are? I listened to the gentleman's explanation to get some information, and I understand it was where mining camps spring up suddenly or something of that kind.

Mr. OVERSTREET. I mention that, because that has been the practice of the Department on that item.

Mr. POWERS. But I see nothing in the item that indicates it was anything more or less than a contingent fund to put persons in these offices to use as they please.

Mr. OVERSTREET. It is placed entirely under the authority of the Postmaster-General.

Mr. POWERS. It seems to me this is a rather loose statement, although I do not wish to be understood as censuring the great Committee on Post-Offices and Post-Roads.

The CHAIRMAN. Without objection, the pro forma amendment of the gentleman from Maine will be withdrawn. [After a pause.] The Chair hears no objection. The question now is on the amendment of the gentleman from Indiana.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For rent, light, and fuel for first, second, and third class post-offices, $3,000,000: *Provided*, That there shall not be allowed for the use of any third-class post-office for rent a sum in excess of $400, nor more than $80 for fuel and light in any one year: *And provided further*, That the Postmaster-General may, in the disbursement of this appropriation, apply a part thereof to the purpose of leasing premises for the use of post-offices of the first, second, and third classes, at a reasonable annual rental, to be paid quarterly, for a term not exceeding ten years.

Mr. JOHNSON. Mr. Chairman, I make a point of order against so much of that paragraph as follows the word "year," in line 22, page 12, as new legislation.

Mr. Chairman, not out of any desire to antagonize the committee, but in order that I may have some light upon this question, I reserve the point of order. I should like to hear the chairman of the committee on it.

Mr. OVERSTREET. Mr. Chairman, this provision is in the identical language in which it has been carried for a good while, so as to permit advantageous contracts on the part of the Government where long-time leases can be obtained. The reason is that it is a benefit to the Government to make an advantageous contract for a term of years rather than a higher rate of contract from year to year.

Mr. FINLEY. The Government suffers no injury by this, because the Department can give up a lease whenever it gets ready.

Mr. OVERSTREET. Yes; I am obliged to the gentleman. The Government suffers no injury, because in all these contracts a provision is carried giving the option to the Government to terminate the lease upon one year's notice.

Mr. JOHNSON. That is just what I wanted to find out. For instance, the Government might rent quarters in a rapidly growing town, and at the expiration of two or three years the quarters it had might prove absolutely inadequate. The question was, Would the Government be compelled to pay the rent for ten years, although it might have to go out and get a larger office? On the explanation of the gentleman I cheerfully withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The Clerk will read.

The Clerk read as follows:

For rental or purchase of canceling machines, including cost of power, motors, repairs to motors, and miscellaneous expenses of installation and operation, $250,000.

Mr. OVERSTREET. I move, in line 9, page 13, after the word "power," to add the words "in rented buildings."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 13, in line 9, after the word "power," insert the words "in rented buildings."

The amendment was agreed to.

Mr. JOHNSON. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Provided, That no part of this appropriation shall be available for lease of canceling machines unless the lease shall contain a clause giving the Government the option to purchase said machines.

Mr. JOHNSON. Mr. Chairman, in Document 383, second session Fifty-eighth Congress, there is a very interesting story about the canceling machines rented and purchased by the Government. The First Assistant Postmaster-General testified before the Committee on the Post-Office and Post-Roads that the Department had endeavored in making rental contracts with the owners of these machines to incorporate in the confracts a clause giving the Government the right to purchase. He further stated that all of the companies had refused to incorporate this clause in their contract. There are two parties who can play the holp-up game. Some of these canceling machines are rented to the Government for as much as $400 a year. This document which I hold in my hand shows that canceling machines were rented in some instances for more than twice what it costs to construct them. There are about eight companies making canceling machines.

Mr. NORRIS. Will the gentleman permit an interruption?

Mr. JOHNSON. Yes.

Mr. NORRIS. If your amendment does not prescribe any method by which the amount of the purchase price of a canceling machine shall be fixed, what real benefit would it be to the Government to have that kind of a stipulation in the contract, because the owner of the machine could fix the price at such a figure that the Government could not purchase it? It seems to me that in order to make your amendment effective it ought to contain some provision by which the price of the canceling machine should be arrived at.

Mr. JOHNSON. That is a very happy suggestion, and I shall be glad to accept any amendment which will effect what I am trying to accomplish. Of course the machines are of different prices, and the rentals are different. The purchasing price would be different; but I assume that under this provision, if it were adopted, the Post-Office Department would not insert a clause in the lease to purchase, except at a figure they were willing to pay, if they decided to purchase.

Mr. NORRIS. Just from hearing your amendment read, as I understood it, the Post-Office Department would not have that authority. The man who owns the machines could put in any figure he saw fit, which would nullify what you are trying to reach.

Mr. JOHNSON. As I have already stated, if the amendment as drafted is not sufficient to accomplish the purpose, let us so draft it that it will accomplish that purpose. These companies making the canceling machines are renting them to the Government at exorbitant prices. They refuse to sell because the Government pays them an annual rental that in most cases, I dare say, would be a handsome price for them if they were selling the machines outright.

The CHAIRMAN. The gentleman's time has expired.

Mr. JOHNSON. I hope the House will give me five minutes more.

The CHAIRMAN. The gentleman asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. JOHNSON. This is a business proposition. It seems to me that if we provide in the law that these gentlemen can not rent their machines to the Government unless they are willing to meet the Government on a fair, equitable, conscientious basis, that we will accomplish our purpose. The Government is not obliged to rent any one of these machines. If these people are made to understand that the Government will no longer be held up by them, they will come to terms, because there can be no other purchaser and no other renter in the United States. I hope that the Committee on Post-Offices and Post-Roads will consent to incorporate this amendment into their bill, and trust before the next session of Congress we will have from that committee information as to the cost of these machines, and then we can legislate more wisely and understandingly on the question.

Mr. KENNEDY of Nebraska. Will the gentleman permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. KENNEDY of Nebraska. Does the gentleman know whether or not any of these canceling machines are for sale at any price, or do the manufacturers lease them and refuse to sell?

Mr. JOHNSON. The Government has purchased in years past a large number of machines, as shown in this document, but the First Assistant Postmaster-General, in testifying before this committee that was making up this particular bill, stated that he was unable now to purchase or to get the companies to insert an option to purchase in the leases. I want to fix it so that if they are not willing to deal with us fairly they can not deal with us at all.

Mr. KENNEDY of Nebraska. Then, as a matter of fact, the manufacturers are holding the Government up and getting almost the entire price out of each machine each year?

Mr. JOHNSON. I think so.

Mr. OVERSTREET. Mr. Chairman, this is by no means a new subject. The proposition has been made before in former Congresses, and it is not wise to make such a provision a part of the bill. These machines are needed by the Gevornment more than they are needed by the owners. This facility, particularly in the great offices of the country, saves thousands of dollars, because many additional clerks would be necessary to use hand machines to cancel the stamps. If we insert such a provision in the bill the owners of these machines would simply refuse to accept it. The gentleman's amendment would necessarily be followed by increased appropriations for the employment of additional clerks to stamp upon the separate envelopes the cancellation now made by the machines. It is a saving to the Government notwithstanding the heavy rental price. There are many facilities of which the Government avails itself in the postal service which are of great expense to the Government, but these very facilities save additional expense which would be increased many times over if the facilities were not used. I hope the amendment will be disagreed to.

Mr. KENNEDY of Nebraska. Mr. Chairman, I would like to ask the chairman of the committee if it is true that the Government is at the mercy of the manufacturers of the stamp-canceling machines?

Mr. OVERSTREET. There is this about it. I wanted to state but I forgot to, that on one occasion such a provision was carried and the parties declined to accept the contract and took the machines out, and that necessitated the employment of clerks to do the work, and the expense of the clerks was very much greater than the rental of the machines.

Mr. KENNEDY of Nebraska. I agree with the gentleman on that proposiiton, but are these machines so covered by patents, so manufactured that the Government can not purchase them in any market at any price?

Mr. OVERSTREET. Except the parties would agree, and they decline to agree to sell.

Mr. KENNEDY of Nebraska. In other words, the manufacturers of these machines insist upon leasing only and refuse to sell?

Mr. OVERSTREET. That is true, and on one occasion actually withdrew them from the Government use.

Mr. PADGETT. Will the gentleman allow me?

Mr. OVERSTREET. Certainly; I yield to the gentleman.

Mr. PADGETT. Does not the patent law provide an obligation upon the patentee to furnish the machines patented at a reasonable cost?

Mr. OVERSTREET. I am not familiar with the patent law, and I do not know.

Mr. PADGETT. My impression is, without examining it, that it does, and the Government could avail itself of the stipulation if they sought to resort to that method to defeat this legislation.

Mr. OVERSTREET. I hope the amendment will be disagreed to.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from South Carolina.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. JOHNSON. Let us have a division, Mr. Chairman.

The committee divided; and there were—ayes 25, noes 58. So the amendment was rejected.

The Clerk read as follows:

For pay of letter carriers and substitute letter carriers at offices already established, and for pay of substitute and temporary letter carriers for holiday, election, emergency, and summer and winter resort service, city delivery service, $22,228,000.

Mr. GOLDFOGLE. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

In lines 1 and 2, on page 14, strike out "$22,228,000" and insert in lieu thereof "$24,755,800," and add: "That after June 30, 1906, the pay of letter carriers in cities of more than 100,000 population for the first year of service shall be $600; for the second year of service shall be $800; for the third year of service shall be $1,000; for the fourth year of service and thereafter shall be $1,200; and after June 30, 1906, the pay of letter carriers in cities of a population of under 100,000 for the first year of service shall be $600; for the second year of service, $800; for the third year of service and thereafter, $1,000."

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that amendment that it is contrary to existing law.

Mr. GOLDFOGLE. I trust the gentleman will reserve his point of order.

Mr. OVERSTREET. I reserve the point of order.

The CHAIRMAN. The gentleman from Indiana reserves the point of order.

[Mr. GOLDFOGLE addressed the committee. See Appendix.]

Mr. GOLDFOGLE. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. GOULDEN. Mr. Chairman——

Mr. OVERSTREET. Mr. Chairman, I insist upon the point of order.

The CHAIRMAN. The gentleman from Indiana insists on his point of order.

Mr. GOULDEN. Will the gentleman yield for a brief period?

Mr. OVERSTREET. I yield to the gentleman from New York.

Mr. GOULDEN. Mr. Chairman, I am heartily in favor of the proposed amendment offered by the gentleman from New York [Mr. GOLDFOGLE], and I trust the chairman of the Post-Office Committee will permit it to come before the House proper, where it may be decided upon its merits. In common justice and in the interests of fair play I trust that this will be done.

The bill under consideration shows great care in its construction and recommendations. I desire to specially commend to the country the fact that this great Department of the Government, the one that comes the nearest to the people, came within $14,572,584.13 of a total expenditure of $181,022,003.75 of paying for itself.

The provision for the extension of the pneumatic tubes in several of the larger cities, particularly in New York, is a wise recommendation, and one that should be adopted.

In the city of New York 4 miles of this tube is in operation. This provision in the pending bill (should it become law), will enable the Government to build additional lines that are absolutely necessary to the proper handling of the mails. It has the indorsement of Postmaster Willcox, of New York City, an able and efficient officer, as well as the Postmaster-General.

The one criticism that I have to make on the bill is of omission and not of commission, and is to my mind a serious mistake, working a gross injustice to a most deserving class of public servants. I allude to the pay of the letter carriers, for which the bill carries $22,228,000.

It is generally acknowledged that the cost of living in the larger cities has increased fully 25 per cent in the last five years, yet not a cent of increase of salary. That something should be done no one will deny. Feeling a deep interest in the matter, I addressed a letter to the Postmaster-General under date of March 31, asking how much additional would be required to advance the salaries of these hard-working men in cities of 100,000 population and over. His letter explains itself. I ask the Clerk to read the letter.

The Clerk read as follows:

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., April 5, 1906.

Hon. A. J. GOULDEN,
House of Representatives.

SIR: In reply to your letter of the 31st ultimo, in which you asked to be informed what additional appropriation would be required to raise the salaries of letter carriers in all cities having a population of 100,000 or over to $1,200 a year, I have to advise you that at the beginning of the next fiscal year there will be 10,139 carriers, in thirty-nine cities, who would be entitled to the maximum salary of $1,200 a year, and that an additional appropriation of $2,027,800 would be necessary to cover the increased compensation of these men.

The figures given are based on the assumption that you have in mind the promotion from $1,000 to $1,200 of all carriers employed in the cities in question who have been in the service for three years or more; that is, that you propose to create in such cities a fourth class of carriers, at $1,200 a year, to be composed of the men who have already served at least one year in the present $1,000 class.

Respectfully, GEO. B. CORTELYOU,
Postmaster-General.

Mr. GOULDEN. The letter of the Postmaster-General shows that it would require but $2,027,800 to pay the salaries of the carriers in thirty-nine of the larger cities, where the living expenses have materially increased during the last five years. These hard-working, faithful men, who work in rain and shine, in storm and fair weather, and whose hours generally cover from twelve to fifteen out of the twenty-four, though their actual hours are but eight, are entitled to consideration at the hands of Congress.

The police and firemen in every large city are paid from twelve to fourteen hundred dollars yearly, with a pension in many places, when incapacitated on account of age or infirmity, of one-half of the salary.

This is especially true in the city of New York, where the higher salary is paid, while the letter carrier receives as a maximum but $1,000 per year and no pension when forced to leave the service, unfitted for labor of any kind.

It seems reasonable to expect the United States Government to treat its faithful servants as well as the great Democratic city of New York, and I earnestly hope that the pending amendment may be adopted. [Applause.]

Mr. OVERSTREET. Mr. Chairman, I merely want to direct the attention of the Chair to the act of 1887, fixing the salaries of letter carriers. The amendment is clearly in violation of that law.

The CHAIRMAN. The gentleman insists on his point of order?

Mr. OVERSTREET. I do.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SULZER. Mr. Chairman, I offer the following substitute.

The CHAIRMAN. The gentleman from New York offers a substitute, which the Clerk will report.

The Clerk read as follows:

Amend by striking out in lines 1 and 2, page 14, "$22,228,000" and substitute the following: "$24,500,000, or so much thereof as may be necessary: *Provided*, That no part of this appropriation shall be used for said purpose unless in the use thereof the carriers hereinafter mentioned shall be paid salaries as follows, to wit: That after June 30, 1906, the pay of letter carriers in cities of more than 75,000 population, for the first year of service shall be $600; for the second year of service shall be $800; for the third year of service shall be $1,000; for the fourth year of service and thereafter shall be $1,200. And after June 30, 1906, the pay of letter carriers in cities of population under 75,000 for the first year of service shall be $600; for the second year of service, $800; for the third year of service and thereafter, $1,000, and that all acts or parts of acts inconsistent herewith are hereby repealed."

Mr. OVERSTREET. Mr. Chairman, I make the point of order that that amendment changes existing law.

The CHAIRMAN. The gentleman from Indiana makes the point of order against the amendment. Does the gentleman from New York desire to discuss the point of order?

Mr. SULZER. Of course the gentleman from Indiana knows that he can not make a point of order against this proposed substitute.

The CHAIRMAN. But the gentleman has done so. [Laughter.]

Mr. SULZER. Well, Mr. Chairman, I will discuss the point of order. In doing so let me say, incidentally, that I substantially agree with all that my colleague from New York [Mr. GOLDFOGLE] has said regarding the efficient and arduous and reliable services performed by these deserving employees of the Government, the letter carriers, and the inadequacy of the wages they receive for their work.

Mr. OVERSTREET. Mr. Chairman——

Mr. SULZER. Let me say to the gentleman from Indiana that he will get along just as well and just as fast with his bill if he will take things easy.

Mr. OVERSTREET. I merely want to say, Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. SULZER. Yes; I yield to the gentleman.

Mr. OVERSTREET. I merely want to call the attention of the gentleman from New York to his remarks of a year or two ago, when he made the same speech.

Mr. SULZER. I have not made the speech yet, but I shall make it every year [laughter], and I will keep on making it as long as I am in Congress, until justice is done to the letter carriers. [Applause.]

Mr. OVERSTREET. I wanted to know if the gentleman was going to add to that same speech, which he has heretofore delivered, the abuse of myself and the prediction that the letter carriers would see to my retirement, and if he is then going to strike that part of his speech from the RECORD, as he did before?

Mr. SULZER. I will if you ask me to again.

Mr. OVERSTREET. I never have asked it.

Mr. SULZER. Very well, then I will let it stay in the RECORD. Now, Mr. Chairman——

Mr. OVERSTREET. Mr. Chairman, I will permit the gentleman to proceed to make his same old speech.

Mr. SULZER. Mr. Chairman, I have the floor. I do not want the gentleman to make a speech in my time. Let him make his speech in his own time. The gentleman has all the time he wants, and it is very hard for us Democrats over here to get any time at all. Now, I do not intend to indulge in any reflections on the chairman of the Committee on Post-Offices and Post-Roads. It is unnecessary. But I do want him distinctly to understand that if I wanted to state all the facts regarding the outrageous way in which the poor letter carriers are treated and the gentleman's responsibility for it, not only would the gentleman be retired from Congress by his constituents, but every Member of this House who sits here year in and year out and is afraid to show his colors on this question would be retired, too. I hope the friends of the letter carriers in every Congressional district in the country in the coming Congressional campaign will demand a pledge from the candidates to favor this bill, and vote for the candidate that will promise to work for and support this bill in the next Congresss, and vote against the candidate who will not pledge himself to do all in his power to make the bill a law. We will never succeed unless something like this is done.

There is not a man in this House who does not know that I am telling the truth when I say that these letter carriers are the hardest worked, the most patient, the most honest, the most zealous, the most untiring, and the most efficient men to-day in the employ of the Government; and yet they get the poorest pay. They are paid to-day just about the same wages they were paid twenty-five years ago, and everybody knows that the price of the necessaries of life under the Dingley tariff law has gone up over 30 per cent during the last ten years, and the letter carriers' wages remain just the same as they were twenty-five years ago. [Applause.]

The letter carriers and the post-office clerks, and every other person whose salary is fixed, do not get any benefit from the Dingley high-tariff law, for nearly all the necessaries of life they have to buy now they have to pay about 30 per cent more by reason of this Republican tariff law than they did ten years ago.

The letter carriers ask for a very little more salary, and to have it a graduated salary as provided for in my bill, now offered as an amendment. After a man has worked faithfully several years, give him an increase; after he has served five years, another increase, and so on until the carriers in the large cities of this country—and there are only thirty-nine of them, I believe, with a population of over 75,000—would get $1,200 a year.

Now, I say $1,200 a year for a letter carrier who has worked for the Government for years honestly and faithfully, in all kinds of weather, carrying the mail in sunshine and rain, in storm and distress, in the cold of winter and the heat of summer, is little enough. No man can bring up his family and educate his children on any less. I know there are letter carriers in the city of New York who do not dare get married because they know that they can not earn enough to decently support a wife. [Laughter.]

Mr. Chairman, the amendment offered by me and just read by the Clerk is in the interest of the letter carriers of our country. It is their bill, their hope—the one thing in legislation they ask for, and pray for, and demand. I offer it in good faith in their name, and under our rules I do not think it is, or can be, subject to a point of order.

This amendment is the letter carriers' bill introduced by me in this House at the beginning of this Congress. I have introduced this letter carriers' bill in every Congress for the past ten years. It never gets out of the committee of the gentleman from Indiana. It is there now. It is sleeping in that committee, and it will never wake up—never come out. I am satisfied the Republicans on the Post-Office Committee will never report it favorably. The bill is so short that I will ask the indulgence of the House while I read it. Besides, I want it to go in the RECORD as part of my remarks, so that all who are concerned in the matter can read it and judge of its merit. I introduced it in this House on the 13th day of last December. It is entitled "A bill to increase the pay of letter carriers," and reads as follows:

Be it enacted, etc., That after June 30, 1906, the pay of letter carriers in cities of more than 75,000 population for the first year of service shall be $600; for the second year of service shall be $800; for the third year of service shall be $1,000; for the fourth year of service and thereafter shall be $1,200. And after June 30, 1906, the pay of letter carriers in cities of a population of under 75,000 for the first year of service shall be $600; for the second year of service, $800; for the third year of service and thereafter, $1,000.

SEC. 2. That all acts or parts of acts inconsistent with this act are hereby repealed.

That is all there is to it—a most commendable bill. Why should it not be reported? Why should it be smothered in the committee? Why should it not be presented to the House and the Members given an opportunity to vote for it or against it? We want a record on this bill. We want to fix responsibility. We want to find out who are the friends and who are the enemies of the letter carriers. I am now, always have been, and always will be a friend of the letter carriers. I am proud to say that. They are my friends and I am their friend. The Government in all its service has no more honest, no more tireless, no more faithful employees. Their claims are just and should be recognized, and sooner or later they will be recognized and granted. So keep up the fight.

These letter carriers are the most efficient, the hardest worked in all the country's service, and the poorest paid. The letter carriers of the land are compelled to toil day in and day out—in sunshine and in storm, in winter and in summer, in all kinds of weather—long, long weary hours, and taking all other employees in the various Departments of the Federal Government as a basis for comparison, it can not be denied that the letter carriers render the most and the hardest work for the smallest remuneration. Let us be just to these honest, hard-working, faithful men.

Now, sir, why is it when every Democrat, I believe, on this side of the House is anxious for a favorable report of this bill, is anxious to have it passed, is anxious to vote for it to make it a law—why is it, I ask, that the Republicans in this House smother the bill every session in the committee? Why is the Republican party against the letter carriers' bill? Is it because a few Republican leaders of this House are opposed to giving the letter carriers decent wages? Or is it because the Republicans are so busy legislating for monopoly that they have no time to legislate for man? Let the Republican party answer in the coming campaign.

Now, sir, I want to state that in every Congress in which I have been a Member I have introduced this letter carriers' bill for the benefit of the letter carriers. During all this time I have worked as hard as I could, before the committee, with Members of the House, in season and out of season, continually, to get a favorable report, but all in vain. I never could get the Republicans on the committee to report the bill and do justice to the deserving letter carriers of the country. Time and time again on the floor of this House, year in and year out, I have pleaded for just treatment, decent wages, and fair play for the letter carriers. If there ever was a bill introduced in this House that ought to appeal to every Member as a matter of right and justice it is my bill for the letter carriers.

I plead to-day, as I have pleaded in the past, for justice for the deserving letter carriers. Their request for living wages is the demand of humanity. My heart goes out to them. I can not refrain from making this appeal in their behalf for simple justice. How I wish it were in my power to aid them, to pass and enact into law this bill they all want, they all pray for; this bill that is so fair and so just, that appeals to every right-thinking citizen in all the land, and that challenges adverse criticism. How much time and money we waste here for useless and worthless things! It is terrible when one soberly considers it all—and then, again, so much for the few, so little for the many. How easy for the monopolies and the powerful to pass a bill—a bad bill—and how difficult for the poor and the weak, the many, to pass a bill—a good bill. [Applause.]

How poorly, how miserably the letter carriers are paid! And yet, take them all in all, they are courteous, long suffering, uncomplaining, honest, assiduous, and industrious. How few of our citizens ever think of their trials, their wants, their health, and their families and little ones at home. Under the present law they do not, and can not, earn enough, no matter how long they have been in the service of the Government or how many hours a day they labor, to keep body and soul together. And what do they get? A mere pittance a month that is not enough to economically support one man. It is a disgrace, a crying shame. Many of these letter carriers have wives and children—little homes—and these wives and children in many cases are to-day in want.

The head of the household does not get paid enough by the Government to live halfway decently. But it is not the Government's fault, it is the fault of the Republican leaders here in Congress. I want to appeal to the Republicans of this House, in the name of justice and fair play, in the name of decency, that when they are doing so much for organized capi-

tal, so much for criminal syndicates, so much for monopolies, for God's sake to do something for the poor letter carriers. [Applause.]

Let us be honest. Let us be just. Let us be true to the dictates of our nobler impulses, and if we are, this amendment—the letter carriers' bill, so honest and so just and so earnestly desired—will be adopted, speedily passed, and a law on our statute books. Is there a man here opposed to it? If so, let him come out in the open and have the courage to get up and say so. Do not strike it down and out on a technical point of order. Who is opposed to this amendment on its merits? If any there be, let him get up and say so. I pause for an answer. No one opposed to it, and yet the bill lies in the committee, and it seems impossible to ever get it out.

The friends of the letter carriers in this House can not get the letter carriers' bill reported from the Committee on Post-Offices and Post-Roads. Under our rules we can not move to discharge the committee from further consideration of the bill. Our only remedy, our last resort, is to move to amend this post-office appropriation bill by offering the letter carriers' bill as an amendment, and draw the amendment in such a way that it will not be subject to a point of order, which the gentleman from Indiana [Mr. OVERSTREET], the chairman of the committee, always makes to every effort that is made to aid and benefit the letter carriers. He gladly and quickly and yearly increases the appropriations for the railroads for carrying the mails, but he inhumanly and stubbornly, year in and year out, refuses to increase the appropriation for the letter carriers for carrying the mail. Everything for soulless monopoly; nothing for flesh-and-blood man. What a contrast! What a spectacle! What a shame! [Applause.]

Mr. Chairman, I have now made my old speech, as the gentleman from Indiana says, for the letter carriers. I shall not at present discuss the matter further. But I shall continue the fight for justice to the letter carriers until the battle is won.

Now, sir, just a word in regard to the point of order made by the gentleman from Indiana. I do not think the amendment is subject to a point of order; it is a limitation on the appropriation. It has been held over and over again that a limitation of this character on an appropriation is in order. I believe I am sustained by precedent. We shall have a vote on the amendment. I want to get a vote here to-day on my amendment to see how many Members of this House are in favor of doing justice to the letter carriers. I regret to see that there are so many empty chairs around. I am sorry that Members knowing this question was coming up stay away or go out in the lobby, and then tell the people at home who ask for justice for the letter carriers, who want their bill passed, that they are in favor of it, but they can not get a vote on it. Now, I am going to give the Members present the opportunity to vote for it. About one-third of the membership of the House is out of the House, and yet every one of the Members knew that this question was coming up to-day. However, I am willing to take the judgment of the Members that are here, and I hope every man who is in favor of decent wages being paid by the Government for faithful service will vote in favor of the amendment I have offered.

In regard to the point of order, Mr. Chairman, made by the gentleman from Indiana on this amendment, I desire to call the Chair's attention to page 3529 of the CONGRESSIONAL RECORD, March 22, 1904, when the gentleman from Indiana [Mr. CRUMPACKER] was in the Chair, and he ruled on an identical amendment and declared that it was in order.

Mr. OVERSTREET. Mr. Chairman, I merely want to say that while the amendment as drawn is under the limitation, it necessarily changes the law even for one year, and when it does change the law for any length of time, however slight, it violates the rule, and I insist on the point of order.

The CHAIRMAN. A moment ago, in deciding a point of order made by the gentleman from New York [Mr. BENNET], the Chair very briefly attempted to distinguish between the present condition and the condition that existed heretofore in reference to limitation. The same conditions are present now by the amendment offered by the gentleman from New York [Mr. SULZER], and the Chair, for the same reason, sustains the point of order.

Mr. SULZER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SULZER. Do I understand the Chair to overrule the decision of Judge CRUMPACKER?

The CHAIRMAN. That is not a parliamentary inquiry, and the Chair sustains the point of order.

Mr. SULZER. Mr. Chairman, I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from New York appeals from the decision of the Chair.

Mr. SULZER. And I desire to be heard briefly on the appeal.

Mr. OVERSTREET. I object. It is not subject to debate.

The CHAIRMAN. The Chair thinks it is.

Mr. SULZER. The gentleman from Indiana should learn parliamentary law when he goes home. [Laughter.]

The CHAIRMAN. The gentleman from New York will be heard on the appeal.

Mr. SULZER. Mr. Chairman, it is very seldom and always with regret that I appeal from the decision of the Chair, especially when the Chair is occupied by my colleague the gentleman from New York [Mr. SHERMAN], whom I look upon as one of the best parliamentarians in Congress. But in this instance I am constrained to do so because I fear the Chair, who has just been selected by his party as chairman of the Republican Congressional committee, has for some reason or other—and we must draw our own conclusion—overruled a precedent that should be followed in this House. I thought the Chairman was such a good friend of the letter carriers that he would follow that precedent heretofore made by the gentleman from Indiana [Mr. CRUMPACKER].

Now, sir, this identical amendment, to go no further back than two years ago, when the gentleman from Indiana [Mr. CRUMPACKER] was in the chair, was presented by an amendment offered by the gentleman from California, Mr. Livernash. Judge CRUMPACKER, in his decision (p. 3529 of the CONGRESSIONAL RECORD), said:

> The amendment offered by the gentleman from California is to strike out the phrase "twenty-two million two hundred and fifty thousand dollars" * * * and substitute therefor "twenty-three million two hundred and fifty thousand dollars: *Provided*, That no part of the appropriation shall be used for said purpose unless in the use thereof the letter carriers hereinafter mentioned shall be paid salaries as follows."

The language of my amendment is identical with this phraseology. The two amendments are on all fours. Judge CRUMPACKER goes on to say:

> The Chair reads only enough of the amendment to illustrate its character. * * *
>
> The business of the House is conducted under rules adopted by the House; and it is within the power of the House to withhold an appropriation altogether or to make it and connect with it limitations. * * * The House has that power, and the Chair has no right to say the House can not exercise it. * * *
>
> The House has the undoubted right to impose limitations upon appropriations and impose conditions by way of limitation. * * *
>
> It is not for the Chair to criticise the action of the House, but simply to decide whether, under the rules, it has the right to adopt the proposed amendment. The Chair is of the opinion it has that right, and therefore overrules the point of order. * * *

The entire matter was thoroughly debated at that time by the gentleman from Indiana [Mr. OVERSTREET] and by several gentlemen on the floor, and after a full and careful discussion of the proposition Judge CRUMPACKER ruled against the point of order.

Now, I want to say, Mr. Chairman, that it is very easy to override and overrule an established precedent; but I say, and I have had some experience as a presiding officer, I say there is nothing so dangerous in the history of parliamentary practice and of parliamentary assemblages, as to have chairmen, or speakers, one year rule one way and the next year rule another way on an identical proposition. If that is to go on in this House, no man who is a Member of it will be able to tell if a question arises where he stands, or what his rights are, or what he can do under the rules. He will be simply at the mercy of the arbitrary will and autocratic power of the gentleman who happens to be in the chair. We must follow precedent. If this House permits this decision to be set aside in this way, I predict that the time is not far distant when the House of Representatives of the United States will be the laughingstock of every parliamentary body in the world. I believe in following precedents, especially when I believe they are right and in accordance with good parliamentary practice.

As a Member of this House for ten years I have never voted to override the decision of the Chair when in my opinion the Chair was right. I believe the decision of the gentleman now in the chair is wrong, against precedent and good parliamentary practice. I shall not waste time in further discussing it. I submit this question to the House, and declare that if it sustains the Chairman and overrides the precedent heretofore made, I will submit the case of the rights of the letter carriers to the people in the coming Congressional campaign and let them decide between Philip drunk and Philip sober. [Applause.]

The CHAIRMAN. The Chair desires simply to call the attention of the House to the fact that the gentleman from New York bases his argument on a decision rendered by the gentleman from Indiana [Mr. CRUMPACKER] when he was in the chair. The same gentleman, in debate upon the floor two days after rendering the decision, in an explanation in reference to that de-

cision, ended it in these words—I am simply reading his conclusion:

I therefore believe the decision I made on day before yesterday, while occupying the chair, in ruling upon this particular proposition, was erroneous.

[Laughter and applause.]

The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. SULZER. That is not in the record of the gentleman's decision. It may be in record of the gentleman's subsequent remarks.

The CHAIRMAN. The gentleman is out of order.

Mr. SULZER. I may be out of order, but I think the decision is good law and common sense.

The question was taken on the appeal; and there were—ayes, 128, noes 14.

So the decision of the Chair stood as the judgment of the committee.

Mr. BENNET of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

On page 14 strike out lines 1 and 2 and substitute "$23,228,000: *Provided*, That none of such sum so appropriated shall be expended in cities having a population of over 250,000, except to carriers as to whom it has been provided by statute that they shall be paid as follows: Carriers who have served more than three years, whose salaries shall be $1,200 per annum; carriers who have served more than two years, whose salaries shall be $1,000 per annum; carriers who have served more than one year, whose salaries shall be $800 per annum, and carriers who have served less than one year, whose salaries shall be $600 per annum, and such substitutes as are now provided by law."

Mr. OVERSTREET. Mr. Chairman, I raise the point of order against that amendment. It is contrary to existing law and the statute formerly read.

Mr. BENNET of New York. I would like to be heard on the point of order.

The CHAIRMAN. Will the gentleman reserve his point of order?

Mr. BENNET of New York. I want to be heard on the point of order.

The CHAIRMAN. The gentleman will be heard on the point of order.

Mr. BENNET of New York. Mr. Chairman, in the earlier decision of the Chair, based on the second decision made by the gentleman from Indiana which I cited, the Chair held that the amendment which I then offered was not in order, for the reason that under it the Postmaster-General might claim that we gave him the right to change salaries, and so this amendment——

Mr. SULZER. Will the gentleman yield to me for a moment?

Mr. BENNET of New York. No; I am talking strictly on the point of order.

Mr. SULZER. I would like to know how the gentleman voted on my appeal.

The CHAIRMAN. The gentleman declines to yield.

Mr. SULZER. I would like to know how you voted on my appeal.

The CHAIRMAN. The gentleman is out of order; his colleague declines to yield.

Mr. BENNET of New York. So that I have added this language, "except to carriers as to whom it has been provided by statute that there shall be paid as follows," covering the point raised by the Chair, which was that the other amendment was ruled out as a limitation because it did not provide that salaries could not be changed. This amendment does so provide; and therefore under the preceding decision it is strictly in order. [Cries of "Rule!"] I would like to call the Chair's attention to the language written in my own fair hand.

The CHAIRMAN. The Chair is attempting to ascertain what that language is. [Laughter.]

Mr. BENNET of New York. I thought I would have to read it. "As to whom it has been provided by statute that they shall be."

Mr. OVERSTREET. I have only to say that no construction of this amendment would show that it failed to change the existing law to which I referred a few moments ago.

The CHAIRMAN. Will the gentleman from New York make it a little more plain to the Chair what the proposed effect of his interlineation is, and the amendment as changed by the interlineation?

Mr. BENNET of New York. The amendment as changed by the interlineation, if adopted, would not affect a single salary. It would simply provide that in cities of over 250,000 no carrier whatever could be paid, and thus bring it entirely within the power of Congress. We can not on an appropriation bill change existing law, but we can refuse appropriation for any existing office.

Mr. OVERSTREET. Will the gentleman allow me to ask him a question?

Mr. BENNET of New York. It would not be paid until there was this legislation. As it is, it requires two acts in order to change the salaries—one to get the change of salary and the other the appropriation bill. This is an appropriation bill and will not change existing law. A carrier in cities of over 250,000 can not be paid a single dollar under the amendment.

The CHAIRMAN. May the Chair ask the gentleman this question: Does not the gentleman suppose that the administrative officer would consider that Congress by this act intended to change the law?

Mr. BENNET of New York. Not when he reads these words, "except as to whom it has been provided by statute that they shall be paid as follows."

Mr. OVERSTREET. I would like to ask the gentleman a question. I failed to understand the amendment as it was read the first time. Do I understand the effect of this amendment, if adopted into law, would be that a certain number of carriers would be dispensed with and paid no salary unless there should be some additional legislation?

Mr. BENNET of New York. The effect of the amendment, if adopted, would be this: That in cities of over 250,000—of which I will say parenthetically the city in which I live is one—there can be no carriers paid at all until a statute is passed grading their salaries as provided by this law.

Mr. OVERSTREET. Then it would mean, in effect, an increase in the salaries?

Mr. BENNET of New York. Oh, not at all. It would mean an absolute exclusion of so much of the appropriation as applies to cities of over 250,000. It is not a dollar of increase.

Mr. OVERSTREET. This amendment violates the rule by changing more laws than I had first thought. The law now authorizes certain carriers to be employed. This amendment would nullify that law. A change of law is not necessarily a fixing of salaries; but you can not repeal a law without changing it. That is what this does.

Mr. BENNET of New York. This does not repeal anything.

Mr. OVERSTREET. Its nullifies the law.

Mr. BENNET of New York. It nullifies nothing. There are these carriers in the cities of over 250,000. They would remain there.

Mr. OVERSTREET. Will the gentleman yield for another question?

Mr. BENNET of New York. Certainly.

Mr. OVERSTREET. As I understand the gentleman, his real purpose, by the effect of this amendment, is to have other legislation which will result in a change of the salaries of carriers.

Mr. BENNET of New York. Mr. Chairman, there is now in the committee——

Mr. OVERSTREET. I ask the gentleman for a "yes" or "no."

Mr. BENNET of New York. The gentleman is not entitled to demand that.

Mr. OVERSTREET. Oh, I can ask it.

Mr. BENNET of New York. Yes; and not get it. [Laughter.]

Mr. OVERSTREET. Mr. Chairman, I think it is very clear that it is intended as a change of law, and I insist on the point of order.

The CHAIRMAN. The Chair begs to read a little more fully what was said by the gentleman from Indiana [Mr. CRUMPACKER] in explaining, two days after his decision, why he thought he was in error; and in that connection the Chair desires to say that that statement is found on page 3638 of the RECORD of the proceedings of the House in the second session of the Fifty-eighth Congress, and the RECORD discloses the fact that the gentleman from New York [Mr. SULZER] was on the floor at the time. The distinguished gentleman from Indiana said:

But upon reflection and subsequent investigation of the provisions of that amendment, I have no doubt that the Post-Office Department or any court would hold that it was clearly the intention of Congress to provide an increase of the pay of letter carriers in accordance with the provisions of the proposed amendment. I think any court would hold that to be the clear purpose and intention of Congress in adopting the amendment. And if that be true, of course it was new legislation, of course it changed existing law, and the amendment was clearly subject to a point of order. I therefore believe that the decision I made on the day before yesterday while occupying the chair, in ruling upon this particular proposition, was erroneous.

The Chair sustains the point of order.

Mr. BENNET of New York. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New York offers an amendment which will be reported by the Clerk.

The Clerk read as follows:

On page 14, line 2, after the word "dollars," add "*Provided*, That such appropriation shall be available only when it shall have been provided by statute that the leave of absence of carriers who have been

thirty or more years in the service may, in the discretion of the Postmaster-General, be extended for such a length of time as he may, in each instance, deem advisable, the service to be performed by a substitute who shall be paid not more than $600 per annum, all sums paid to substitutes to be deducted from the salaries, respectively, of the carriers given such leave."

Mr. OVERSTREET. Mr. Chairman, I make the point of order on that.

Mr. BENNET of New York. I should like to be heard just for a moment on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BENNET of New York. Simply for the purpose of calling the attention of the Chair to the fact that the decision which the Chair last quoted of the gentleman from Indiana [Mr. CRUMPACKER] was followed by the decision of the then Chairman—and if my recollection is correct, it was the gentleman from Illinois [Mr. BOUTELL]—and that the ruling was not based at all upon the statement of the gentleman from Indiana, but upon the concession of the gentleman from California, Mr. Livernash, that his amendment did change existing law. And I should like further to call the attention of the Chair to the fact that the amendment of the gentleman from California, Mr. Livernash, did not contain the qualifying words that have been inserted in this amendment and the one preceding it; that is, that nothing can be done until the existing situation is changed by statute.

The CHAIRMAN. The Chair quoted the argument of the gentleman from Indiana [Mr. CRUMPACKER] in answer to the argument of the gentleman from New York, which argument was based wholly upon the decision of the gentleman from Indiana [Mr. CRUMPACKER], made two days prior, which the gentleman from Indiana [Mr. CRUMPACKER] then conceded to have been erroneous.

Mr. BENNET of New York. Oh, no; I think the Chair is mistaken.

The CHAIRMAN. The Chair is talking about the other gentleman from New York [Mr. SULZER]. The Chair sustains the point of order.

Mr. BOUTELL. Mr. Chairman, I ask permission to extend the remarks I made earlier in the day.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL.

For inland transportation by star routes, including temporary service to newly established offices, $7,100,000: *Provided*, That out of this appropriation the Postmaster-General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor: *And provided further*, That the Postmaster-General may, in his discretion, direct the discontinuance of any star-route service whenever such service shall be duplicated by rural delivery service.

Mr. BARTLETT. Mr. Chairman, I desire to reserve the point of order on the last proviso, beginning in line 13 and ending in line 16. It is subject to a point of order, but if the gentleman from Indiana, the chairman of the Committee on Post-Offices and Post-Roads, will accept an amendment which I think will cure my objection, I will not make the point of order.

Mr. OVERSTREET. What is the amendment?

Mr. BARTLETT. To insert the word "wholly" between the words "be" and "duplicated" in line 15, so that it will read "be wholly duplicated."

Mr. OVERSTREET. Would not the word "entirely" be better than the word "wholly?"

Mr. BARTLETT. Yes.

Mr. OVERSTREET. Inserted after the word "be?"

Mr. BARTLETT. Yes.

Mr. OVERSTREET. I will accept that amendment, Mr. Chairman.

Mr. BARTLETT. Then I withdraw the point of order and offer the amendment.

The Clerk read as follows:

On page 15, line 15, before the word "duplicated," insert the word "entirely."

Mr. FLOOD. Mr. Chairman, I renew the point of order.

The CHAIRMAN. Does the gentleman desire to discuss it?

Mr. FLOOD. Mr. Chairman, it is new legislation, and my point of order is based upon that fact. My objection to the provision is that there is a movement on foot to reduce the number of services on the free-delivery routes in certain sections of the country, and unless something is done to let the Post-Office Department know that Congress will not submit to this reduction, this reduction will be made, and I am opposed to the abolition of any more star routes until this matter about the rural free delivery is settled. Before we had the free-delivery service there were post-offices all over the country served in most instances by daily star routes. When the rural free delivery came it was a great improvement over the post-office and the star-route service, and was gladly accepted by the people, but if this proposition of the Post-Office Department to reduce the number of deliveries on these routes from six to three times a week prevails the service that will be given to the people of the country districts by rural free delivery will be infinitely worse than what they formerly received from the post-offices and the star routes.

There is no certainty whether the reduction is going to be based upon the number of pieces of mail handled by the route per month or whether some other method will be adopted. I have understood that every route that did not handle 3,000 pieces a month was only to have triweekly service, and again that it was to be 2,000 pieces. I learned from an official of the Department that it would depend not on the number of pieces handled on a route, but upon the number of boxes on the rural free-delivery routes; but whatever scheme they adopt with a view to reducing the number of routes, it is an outrage and a wrong to the people of the country districts. They have substituted the rural free delivery for post-offices. The post-offices have been abolished, and the result is that these people who before the rural free-delivery system went into operation were within 1 or 2 or 3 miles of a post-office will now be deprived of the daily mail service or will have to send 8 or 10 miles for their mail. Therefore, Mr. Chairman, I am opposed to the reduction of the star routes anywhere until some assurance can be given by Congress that it will take action to stop the movement to reduce the number of deliveries on the rural free mail routes. [Applause.]

Mr. OVERSTREET. Mr. Chairman, I make the point of order that the gentleman's point of order came too late.

The CHAIRMAN. The Chair will state to the gentleman from Indiana that the gentleman from Virginia was on his feet at the time the gentleman from Georgia offered the resolution.

Mr. OVERSTREET. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. OVERSTREET. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 15, strike out lines 6 to 16 and insert the following:

"For inland transportation by star routes, including temporary service to newly established offices, $7,100,000: *Provided*, That no part of this appropriation shall be expended for continuance of any star route service the patronage of which shall be served entirely by the extension of rural delivery service, nor shall any of said sum be expended for the establishment of new star route service for a patronage which is already entirely served by rural delivery service: *And provided further*, That out of this appropriation the Postmaster-General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor."

Mr. GAINES of Tennessee. I want to reserve a point of order on that proposition.

Mr. FLOOD. That is what I rose for, Mr. Chairman.

The CHAIRMAN. The Chair understands that the gentleman from Virginia and the gentleman from Tennessee reserve points of order.

Mr. OVERSTREET. Mr. Chairman, this is a provision by way of limitation on this amendment, and provides for the continuance of the star route service in the ordinary way by contract, except where there is entire duplication by the extension of the rural delivery service. I think the amendment is not subject to a point of order.

The CHAIRMAN. Will the gentleman from Indiana give his attention for a moment? To what does the gentleman intend the amendment to apply, which he has sent to the desk?

Mr. OVERSTREET. As a substitute for lines 6 to 16.

The CHAIRMAN. That is what the Chair desired to know. Now, will the gentleman from Indiana explain to the Chair upon what theory he claims the provision in reference to Alaska is justified under the rules?

Mr. OVERSTREET. That provision is justified under the rule only upon the ground that it is a continuing service, and is in the identical language in which it has been carried for a number of years.

The CHAIRMAN. The Chair does not find it in last year's bill.

Mr. OVERSTREET. Oh, yes; this is the language of the current law:

For inland transportation by star route including temporary service for newly established offices, $7,300,000: *Provided*, That out of this appropriation the Postmaster-General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor.

That has been the language for a number of years in the various bills carrying appropriations for the postal service.

The CHAIRMAN. It seems to the Chair that the language of the proviso is a proper limitation, but the language in reference to Alaska might be more happily chosen.

Mr. OVERSTREET. Will the Chair permit me before proceeding further to say I will modify the amendment by striking from the amendment I have sent to the Clerk's desk the language relative to Alaska?

The CHAIRMAN. The Chair then overrules the point of order. The question is on agreeing to the amendment.

Mr. HAY. Mr. Chairman, we would like to be heard.

Mr. OVERSTREET. Mr. Chairman, if this is to occasion debate I suggest that we suspend at this time and give way to the gentleman from New York.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. COCKRAN. Mr. Chairman, anyone who has followed the course of this general debate must have become impressed with two radically distinct and conflicting emotions; admiration for the high capacity shown by the speakers, and regret that under the rules which govern us the speeches themselves were directed not to some question pending before the House, but delivered into the empty air. By this, Mr. Chairman, I would not be understood as saying that they were irrelevant to matters deeply affecting the public welfare and vividly before the public mind. With hardly an exception they all turned upon questions of vital and pressing political importance, yet hardly one touched a subject with which the House will be suffered to deal. Sitting in Committee of the Whole House to consider a bill making appropriation for the support of the Post-Office Department we have had addresses on the tariff, on immigration, on denaturized alcohol, and on many other subjects entirely remote from the subject before us and wholly unconnected with each other. If years from now some student should undertake to study the RECORD which chronicles our proceedings he would be driven to the conclusion that while nearly every one of those speeches taken by itself was of such excellence that it might have been addressed to a council of sages, yet the whole debate taken together suggested the incoherence, discordance, and dissonance of a lunatic asylum rather than the debate of a highly intelligent, deliberative body. [Laughter.]

Mr. Chairman, my object in taking the floor now is to bring before the House the ridiculous character of the rules which have caused this profligate waste of such excellent material, in the hope that discussion may evolve some means by which these abundant talents, these great potentialities of efficient service, will be utilized for the public benefit—not dissipated to the public discredit.

Mr. Chairman, the recent history of this House shows conclusively that there is not in all this world a body capable of higher legislative service or animated by loftier civic virtue. And yet, sir, it is a melancholy spectacle that this body, which when controlled by the judgment, the intelligence, and the patriotism of its membership has succeeded in producing the most important and triumphant legislative results, when hampered, fettered, and restricted by absurd rules, often sinks to an incapacity almost ludicrous, of which this very debate is a striking illustration. That I do not exaggerate is conclusively proved by our signal success this session in framing and passing a railroad rate bill of singular merit, when we were left free to control our own proceedings, and the utter failure of the House to pass an effective measure last session when it was bound and gagged under restrictions imposed by the Committee on Rules.

You will recall, sir, that last year when this House was called upon to deal with the intricate, perplexing, and almost wholly unexplored field of railroad rate legislation it was placed under a rule which restricted it to adopting the measure recommended by the majority of the Committee on Interstate Commerce, or else adopting the measure recommended by the minority. No power was left in a Member to offer any other amendment, or in the House to consider it. As amendment is the only object and purpose of discussion, where a body is practically unanimous on the principle of a bill, as the House was on that railroad measure, the passage of such a rule simply meant that we threw over upon the Senate the important duty of originating amendments, which all conceded to be necessary. That was not only an abdication of our functions and a renunciation of our duty, but it was a confession of incapacity. For my part, sir, I declined to be a party to such an abasement of this House, membership in which I consider a distinguished honor, and so when the measure was on its passage I refused to vote, asking simply to be recorded "present."

That measure met the fate which the method of its passage invited. It fell stillborn on the threshold of the other Chamber. It was never even considered by the Senate. It was thrown in the wastebasket, its proper destination. There it remained, useless for every purpose, except as a monument to the folly, the incapacity—aye, sir, I will say the disloyalty—with which we renounced our functions, turned our backs upon our obligations, fled from our obvious duty.

Now, Mr. Chairman, contrast with that dreary record of incapacity, of folly, and of failure, the triumphant progress of the bill dealing with the same subject which passed the House this year. When it came before us we were left free to deal with it as we pleased. Full power to offer amendments was left in the hands of every Member. The limit of debate was fixed by a unanimous vote. Every amendment offered was considered and action taken freely upon it. The result was a measure which I venture to say will stand for many years a monument to the patriotism in which it was conceived, the wisdom in which it was framed, and the resolution with which it was passed. [Loud applause.]

I say this, sir, notwithstanding the fact (and largely because of the fact) that since this measure passed this House it has been the subject of vigorous animadversions and very bitter criticism. I take it that these criticisms are in the highest degree a compliment to its merits. The wrongdoers with whom it was intended to deal testify by the vehemence and fury with which they assail it how deeply they realize its efficiency. But, sir, the abuse of miscreants whose crimes it is intended to prevent weighs little in the minds of honest men against the approval of the people whose rights it is drawn to protect. And this it enjoys beyond all question. Conceive for a moment the change in public attitude toward this measure since closing debate on it here. Recall the objections that were advanced to it in this House with so much vehemence, and you have but to examine from day to day the adverse comments in newspapers, the speeches delivered against it, the interviews with railway officials and railway attorneys who condemn it to measure the distance between the grounds occupied by its opponents before discussion in this House began and since its close. Then you will be able to realize the distance that public opinion has traveled under the light and guidance of our proceedings in this body.

Everyone here will remember that when this measure was pending before us, the point dividing its supporters and opponents was the question whether we had any constitutional or moral right to pass it. Some of its opponents said it violated the letter and others the spirit of the Constitution, but they were all unanimous in describing it as a long step toward socialism. Well, these objections have all been quieted. Not one of them has been audible since the close of debate here. If one is still heard occasionally it is in a voice so feeble and so rare that it merely serves to attest the overwhelming preponderance of public opinion. Gentlemen who were then most vehement in opposing it now claim to be its most ardent supporters. One after another popularly supposed to be bitterly hostile to it objects strenuously now to being counted among its opponents. But while he wants to be recognized among its advocates, he protests that he wishes to perfect it.

Mr. Chairman, no one among the supporters of the bill objects to any suggestion for its improvement. But I believe its friends should be vigilant, and I am sure they will be vigilant, to see that under cover of attempts to perfect the measure its enemies will not be permitted to emasculate it. We must see that it is not destroyed by mutilation disguised as amendments, now that efforts to destroy it by open opposition are no longer considered profitable or even safe.

Mr. Chairman, it is quite true that although the grounds of criticism advanced in this House are abandoned, new ones have been evolved, which, though less weighty, enjoy the advantage of not having been subjected to the test of our scrutiny. Of these the most formidable now directed against the Hepburn bill is that it fails to provide for a judicial review of all orders made by the Interstate Commerce Commission. For that omission this House has been denounced as incapable, negligent, and indifferent. Now that I have the floor I do not know how I can better improve the time at my disposal than by employing some of it in refuting this criticism, and sending it to join all its predecessors. I do not think, sir, that will be a very difficult task; I think the very slightest examination of this last objection will show that among criticisms it deserves to be classed as a survival of the loosest. [Laughter.]

First, Mr. Chairman, let me say a word as to its source. This objection is not advanced openly by the interests chiefly affected by the bill. It proceeds ostensibly from a rather new product of our constitutional evolution—the constitutional lawyer—the great constitutional lawyer, who chooses a legislative body, rather than a judicial tribunal, for the display of his qualities.

It is well to observe that the constitutional lawyer in a legislative body is always a "great" constitutional lawyer.

Now, I confess that I regard this legislative constitutional lawyer with something of the awe which attaches to everything beyond our comprehension. [Laughter.] I do not know that I am able to describe him. I think I know him when I see him, for he has certain unmistakable characteristics. But to describe you must understand, and I admit he is far beyond the power of my intellectuals. Ordinarily our conception of law is a uniform rule of conduct made binding upon all members of a community, or at least on a large majority of them, by the sovereign authority, whatever it may be; and the function of the lawyer, we plain mortals believe, is to ascertain this rule, to define and expound it, and thus promote unanimous obedience to it. But while the essential function of the ordinary lawyer is to promote uniformity of the law, the activities of the great constitutional lawyer in a legislative body, far from tending to produce uniformity of constitutional construction, operate to produce radically different results. Whenever he is active in either branch of Congress we find just as many different constitutions as there are great constitutional lawyers to expound the organic law.

In this particular case the constitutional lawyers all declare that the Hepburn bill is constitutionally infirm somehow or other, but no two of them agree in pointing out the precise seat of infirmity. The constitutional lawyer is always vehement in warning us that before we undertake any measure we must be sure of its constitutionality; that he alone is competent to advise us; that next to the duty of acceping him as infallible comes that of regarding all other constitutional lawyers as unsound, if not worse; that we must be wary even of trusting their quotations lest instead of giving us the judgment of a court they mislead us into accepting as its decision the language by which a minority sought to show that the authority of the majority depended entirely upon the number of judges who constituted it, not upon the weight of reasons which justified it.

Mr. Chairman, if we must wait until the great constitutional lawyers agree upon any subject, it is plain that we would never take a step in any direction. We would stand paralyzed at the threshold of every legislative enterprise, amazed and bewildered—puzzled to distinguish amid the din of their vociferation how much of it is advice to us and how much of it denunciation of each other. I defy any man to define Congress itself according to the constitutional lawyers after he has read three of their speeches. [Laughter.] Some of them say that we have all power, others that we have no power. Some that we can extend our authority over the courts, that we can not only confer jurisdiction on them or withhold it, as we please, but even after we have granted it that we can control its exercise—at least so far as to determine what persons or classes may have the benefit of it; that we can give it to the courts, as it were, with a string, so that a writ may be left within access of our favorites and pulled far beyond the reach of any person or corporation whom we dislike or distrust. Others, again, tell us that we are but the shadow of a legislative body; that we are not even an independent or coordinate branch of government, but, so to speak, an antechamber to some other department; that our power consists in merely proposing laws, which, by the permission of another body, may acquire the force of statutes.

Now, Mr. Chairman, to me—an ordinary citizen, a humble Member of this House—a constitutional lawyer is an imposing personage before a court empowered to decide a constitutional question and whose authoritative interpretations of the Constitution he aids by his arguments. For that very reason, sir, it seems to me that a legislative body whose function is wholly nonjudicial is not a proper theater for disputatious attorneyship, but essentially one for constructive statesmanship.

I can not believe that the function of Congress is a mystery difficult to comprehend or the duty of its Members a puzzle too perplexing for the ordinary mind to solve, as these gentlemen would persuade us. It seems to me that the duty of Congress is to examine closely the condition of the country and keep itself constantly informed of everything affecting the common welfare. Wherever a wrong is found to exist with which the nation can deal more effectively than a State, it is the business of Congress to suggest a remedy. If the courts hold that the legislation we consider desirable is beyond our power to enact, our duty to suggest a remedy is none the less binding, except that instead of proceeding by the enactment of a law we should proceed by proposing a constitutional amendment. Our duty to propose an amendment to the Constitution when advisable is just as binding as our duty to change the law when that is within our power and we believe it is essential to the common welfare. [Applause.] If, therefore, we find that a wrong exists anywhere which the National Government in our judgment is alone competent to redress, and some great constitutional lawyer should undertake to raise objections with that wonderful ingenuity which enables us always to distinguish him, not by numerous decisions of courts upholding his contentions, but by the wonder and awe of his legislative associates at the multiplicity of his quotations, the strangeness of his phrases, the majesty of his mien, and the mystery of his meaning. [Laughter and applause.]

It is not for us to waste time in abstract and fanciful speculations about the course which the courts may pursue toward the remedial measures we may enact. Face to face with a wrong which we believe a State can not cure, it is our duty to find a remedy some way or other. Unless the Supreme Court has held specifically that we can not deal with it, our first step must be in the direction of legislation. The way to ascertain definitely whether a law which we believe will prove effective is constitutional or unconstitutional is not by abandoning ourselves to a maelstrom of speculations about what the court may hold or has held on subjects more or less kindred, but to legislate, and take the judgment of the court on that specific proposal. We can tell whether the enactment is constitutional or unconstitutional when the court pronounces upon it and not before. Even if the court declares it unconstitutional its decision will not reduce us to helplessness. If it drive us from establishing a remedy by legislation it will by that very act direct us to propose a remedy by constitutional amendment. Having framed a suitable amendment and proposed it to the legislatures of the States, our duty will have been accomplished. The final step toward full redress will then be with the bodies most directly representative of the people affected by the wrong.

But, sir, let us consider in the light of common sense the one constitutional objection to this measure on which the constitutional lawyers approach coherence among themselves.

We are told this measure is unconstitutional because it does not provide specifically that the courts shall have power to review all decisions and orders made by the Interstate Commerce Commission. In support of that contention we have mountains of law books piled upon desks, and strident voices filling the country with mysterious and contradictory quotations from them. Without any disposition to join this mystical and awful band, confining myself to the rôle of simple citizen, investigating this subject in the light of common sense, I ask the committee to consider what it is for which these constitutional lawyers contend, so far as their contention is intelligible. Let us see for a moment how far we can go along with them and where we must part company with them.

They begin with the proposition that no person's property can be taken without due process of law. On that they can not raise a dispute with me.

From this they proceed to argue that if a rate be fixed so low that a railway must conduct its business at a loss, its property would be taken without due process of law, and therefore its constitutional rights would be violated. Nobody can object to that proposition. I certainly do not. I go further—I say not only would a rate which entailed actual loss in operation be unconstitutional, but one so low as to prevent the railway from earning a profit on the capital by which it is operated would be an invasion of its constitutional right. Now, to that point the ordinary citizen can walk side by side with the constitutional lawyer, understanding his phrases, and sympathizing with his purposes.

But just here the great constitutional lawyer shows his greatness by spreading his constitutional wings and taking a flight far beyond the power of a sensible man to follow him. Because the Railway Commission is required to ascertain and decide what is a reasonable rate, the great constitutional lawyer holds this mere decision would be confiscation of property if the rate which it fixes be so low that it would preclude the railway from earning sufficient revenues to meet its expenses. How in the name of all that is reasonable to anyone, not a constitutional—a great constitutional—lawyer, can the Commission of itself by any order or conclusion impair or injure the property of a railroad? How can the Commission, under this bill, confiscate property or disturb it in any way? If the act empowered the Commission to enforce its own order by issuing its own writ to a marshal or some other executive officer commanding him to take the property of the railway or to restrain any of its officers, then there might be reason to claim that a failure to provide specifically for a judicial review of its proceedings would make the act creating it unconstitutional. But, Mr. Chairman, the Commission of itself can not touch one penny's worth of property belonging to a corporation. It will not have power to move a single railway car

a single foot, nor to change the location of a single wheelbarrow, nor of a single pickax, nor of a single nail belonging to a railway corporation.

This bill does not empower a railway company to sue out an injunction restraining action by the Commission, for the simple reason that the Commission has no power to do any act that could of itself injure the railway. All that the railroad need do, if it considers a rate fixed by the Commission would impair the security of its property, is simply to ignore the order—to stand pat, if I may borrow from the terminology of the majority a phrase of singular force. [Laughter and applause.] But we all know that the very essence of standing pat is that you do not want any assistance from the pack. The railway does not need any aid from the pack—that is to say, from government through any of its departments—in order to stand pat—to ignore an order of the Commission. A writ of injunction could be of no aid to anyone in standing pat, and therefore no power is given by this bill to bring suit for it. Why, you gentlemen have shown that to stand pat effectively nothing is necessary except a firm purpose coupled with vigorous appetite. [Applause on the Democratic side.]

Mr. Chairman, the absurdity of this clamor that the Hepburn bill seeks to invade the power of the courts becomes self-evident when we realize that it is through the courts themselves any action of the Commission must be made operative. The Commission of itself, as I said, can not touch one single thing belonging to the railway or affect its property in the slightest degree. Before its conclusion or order can have the slightest effect it must do what? Why, it must go itself into court and ask that a summons be issued to the railway. For what purpose must the railroad be summoned? To *show cause* why it should not be compelled to obey the order of the Commission. Can anybody conceive that on the return to such a citation the court will refuse to hear any cause arising under the Constitution or the laws which the railway may advance to explain or justify its refusal? In the light of this simple statement how extravagant and nonsensical is this one assertion upon which the constitutional lawyers are a chorus, that this bill aims to shut the railways out of court while their property is invaded.

Sir, instead of being a device to shut the railways out of court, it is a plan to bring them into court. By the courts and the courts alone can they be affected in their property, their profits, or their prospects. What, then, in its last analysis, is this demand that provision for a liberal judicial review must be inserted in this bill to make it constitutional? A judicial review to be exercised by whom? By judges, of course. Over whom? Why, over the judges themselves. Is not all this clamor and rhetoric about the constitutional necessity of providing for a judicial review tantamount to telling us that to make this law constitutional we must make it absurd, grotesque, fantastical; we must equip the judges with power to take themselves under control, to put fetters and bonds on their own limbs, lest they use them to damage the very persons who are clamoring for this extraordinary extension of judicial authority. When we put restraint on a man's limbs it is because we believe that if they are left free he will use them to the damage of his neighbor. But here it is insisted that the courts must be given specific power to restrain themselves, lest they do some damage to the very persons who insist that these powers which they fear may be abused shall be largely extended. Has anything so extravagant as this been heard anywhere outside opera bouffe? I know nothing parallel to it except in that comic opera called "Iolanthe," performed some twenty years ago, where the Lord Chancellor ponders profoundly the question whether if he married one of his own wards he would be in contempt of his own court and whether he must commit himself to custody for such a deliberate breach of his own authority. [Laughter and aplause.]

To show the extraordinary misapplication of extensive reading characteristic of our constitutional lawyers, I ask gentlemen of the committee to examine in the light of common sense the decision by which it is sought to justify this claim that the failure to provide specifically for a judicial review makes the Hepburn bill unconstitutional. A moment's examination will show that, far from justifying such a conclusion, this decision shows clearly that even if a review by the courts were expressly forbidden the provision forbidding it would be disregarded and the law outside that one provision would be held constitutional. The decision to which I refer is the one rendered in what is known as the "Minnesota Milk case" (Chicago, Milwaukee and St. Paul Railway *v.* Minnesota, 134 U. S. 418). It was an action brought by the attorney-general of the State of Minnesota for a writ of mandamus to compel the Chicago, Milwaukee and St. Paul Railway Company to reduce the rate it had been charging for transporting milk between two points in the State to a lower rate which had been ordered by the State railway commission.

The Minnesota law under which the proceedings were instituted specifically provided that upon the application for a writ of mandamus to enforce its provisions nothing should be heard or considered by the court except the one question—whether the railway company had obeyed or disobeyed the order of the commission—the conclusion of the commission being declared conclusive as to the facts upon all parties. The supreme court of Minnesota held that act constitutional in all its features and issued its writ commanding the railway to obey the order of the commission. On appeal, the Supreme Court of the United States held that as the Minnesota law denying the railway any opportunity to be heard in defense of the rates it had imposed had been held constitutional by the Minnesota court, the court here was bound by its decision, and *as construed* by the Minnesota courts the whole scheme of rate control which it established was an attempt to deprive a corporation of its property without an opportunity to be heard—that is to say, without due process of law—and this no State, through its legislative or executive or judicial department, or through all of them combined, could be permitted to do.

But all through this decision of the United States Supreme Court it is stated plainly that if the court in Minnesota had held the limitation which the statute placed on its powers was unconstitutional and, disregarding it, had given the railway a hearing, the whole proceedings would have been in perfect consonance with the Federal Constitution. Every word and line of the prevailing opinion invites the Minnesota court to revise its decision and make the system of railway rate control in that State entirely valid and effective by simply holding unconstitutional and of no effect that provision of the law which undertook to make the decision of the commission final without requiring that parties affected by it should have an opportunity to be heard in defense of their property. Instead of reversing absolutely the order of the Minnesota court, instead of finally dismissing its writ, as it must have done if the decision had held the whole Minnesota statute to be unconstitutional, the court here did what? I will read the exact language of its final judgment. I shall not undertake to describe it. Every constitutional lawyer thinks that any description of judicial utterance by anyone else is always inaccurate and sometimes depraved. [Laughter.] Here are the exact words of the court:

> In view of the opinion delivered by that court, it may be impossible for any further proceedings to be taken other than to dismiss proceedings for a mandamus, if the court should adhere to its opinion that under the statute it can not investigate judicially the reasonableness of the rates fixed by the Commission. Still, the question will be open for review, and the judgment of this court is that the judgment of the supreme court of Minnesota, entered May 4, 1888, awarding a peremptory writ of mandamus in this case be reversed, and the case be REMANDED TO THAT COURT WITH AN INSTRUCTION FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THE OPINION OF THIS COURT.

Thus you see the action of the Supreme Court of the United States was not to hold that the absence of a specific provision for a judicial review makes a bill of this character unconstitutional, or even that a provision expressly prohibiting a judicial review would be necessarily fatal to its constitutionality, but to send back the case with a plain intimation that if the supreme court of Minnesota revised its decision and allowed the railway a hearing notwithstanding the prohibition of the statute, the Minnesota scheme of railway control would be perfectly constitutional and could be enforced by all the power of the State. Is it conceivable by anybody, not a constitutional lawyer—a great constitutional lawyer—in a legislative body, that this same court, sitting here, will refuse to adopt for itself the rule which by this very decision it invites the supreme court of Minnesota to adopt for that State? Is it conceivable that the Supreme Court of the United States would give to the silence of this bill a force and effect which it holds here should not have been given to the express words of the Minnesota statute?

Sir, the measure which passed this House is based on the assumption that the Constitution itself has given the courts all the power they can exercise with credit to themselves, with safety to our political system, and with advantage to the people. The best feature of the bill is that it has not attempted to improve the definition of judicial power embodied in the Constitution. Such an attempt would be idle, if not disastrous, for to extend that power would be vicious, to define it would be superfluous, to restrict it would be impossible.

But, sir, apart from its constitutionality, many of our critics contend that as a matter of policy, as a matter of right and justice, as a matter of sound legislation the measure passed by this House should have contained a provision for what is called

"a liberal court review." Let us examine this criticism and weigh its merits.

And, first, what is meant by "a liberal court review," I should like to know? Liberal to whom, sir? Why, liberal to the very rogues whose shameless and repeated betrayals of their trust—plundering the corporations they are administering and the people they are bound to serve with rigid but cheerful impartiality—[laughter] have made this legislation absolutely necessary to the preservation of order and the vindication of justice. How can a government be liberal anyway? What field of liberality is open to it? I have pointed out more than once on this floor that if government undertakes to be liberal in one place it must be restrictive in another. If in attempting to deal with crime we are liberal to criminals, then we must be disloyal to the people whom they plunder.

We are not here to treat with crime, to placate it or ask for the forbearance of criminals. We are here to prevent crime by strengthening the law against its perpetration. I would, sir, I could say with any semblance of justification that we are here to punish criminals; but, alas, that would be the language of boastfulness—extravagant and preposterous—so long as the criminals are not mere pilferers of pennies but plunderers of millions. [Applause.] But let us consider the merits of this criticism apart from the terms in which it is expressed. Should we, as a matter of policy, provide what is called a liberal court review? Should we, in other words, establish a judicial review of all orders by the Commission fixing a fair and reasonable rate for the transportation of commodities by railroads?

To answer this question intelligently it is essential that we understand it fully.

Mr. Chairman, among honest men there can be very little difference of opinion upon this question, once its significance is made entirely clear. I believe that nine-tenths of all the disputes which have divided virtuous men would be obviated if at the very beginning the grounds of difference between them were thoroughly ascertained and clearly defined. I remember in my school days listening to a maxim that to teach effectively one must begin by defining accurately. Well, he who would discuss any subject intelligently or profitably must follow the same rule. I believe many gentlemen who appear to be discussing now what they conceive to be differences of opinion over one question are really discussing two wholly different questions. This confusion of thought is not confined to legislative assemblies or even to the great constitutional lawyers who have contributed so much to the mystery of debate. It has reached the Supreme Court, as is shown by this very Minnesota milk case. I am not reading from this volume now for the purpose of swelling the chorus of constitutional speculations, but for the purpose of showing how far diversity of opinion, even in the fountain of constitutional law, may be caused by misapprehension of terms. Judge Blatchford, writing the opinion of the majority, says:

> The question of *the reasonableness of a rate of charge for transportation by a railroad company*, involving as it does the element of reasonableness both as regards the company and as regards the public, *is eminently a question for judicial investigation, requiring the process of law for its determination.*

Mr. Justice Bradley, writing the minority opinion (and two very respectable authorities, Mr. Justice Gray and Mr. Justice Lamar, concurred with him), begins by saying:

> I can not agree to the decision of the court in this case. It practically overrules Munn *v.* Illinois (94 U. S., 113) and the several railroad cases that were decided at the same time. *The governing principle of those cases was that the regulation and settlement of the fares of railroads and other public accommodations is a legislative prerogative and not a judicial one.* This is a principle which I regard as of great importance.

And farther on he says:

> But it is said that all charges should be reasonable, and that none but reasonable charges can be exacted; *and it is urged that what is a reasonable charge is a judicial question. On the contrary it is preeminently a legislative one*, involving considerations of policy as well as of remuneration, and is usually determined by the legislature by fixing a maximum of charges in the charter of the company, or afterwards, if its hands are not tied by contract.

Now, here appear to be two radically irreconcilable positions and yet I believe that both these eminent jurists were entirely correct, except that instead of the same question, as they supposed, they were really discussing two different questions, or rather, they were discussing two different aspects of one question. They were like the two knights of the story, who, riding along a road from opposite directions, met in front of a statue bearing a shield and, having exchanged salutations, one of them remarked what a very handsome silver shield that was, and the other said, yes, the shield was undoubtedly very fine, but it was of gold, not silver. The first repeated it was of silver, and the second insisted it was of gold. From expressions of doubt about the accuracy of each other's vision they passed to imputations on each other's veracity and soon fell to fighting, as was the fashion in those days when any dispute was to be settled. A Druid passing by some two hours afterwards found one dead and the other in the very throes of dissolution. Bending over the dying man he asked him how they had come to be in such a plight, who replied: "That caitiff pretended yonder shield is of silver and I had to give him the lie." "And of what metal did you say it is?" "Gold, of course," said the moribund, gathering all his remaining energies to emphasize his words. "You do not mean to insinuate that I was wrong?" "Alas, my friend," said the priest, "you were not wrong and neither was your adversary. You were right and he was right. The shield is gold on one side and silver on the other. If either of you had taken the trouble to look on both sides instead of lying here now, one dead and the other dying, you would both be moving toward the defense of the soil which you have been staining by blood shed in fratricidal strife."

So I believe that in these discussions and disputes about the body or tribunal which should be empowered to decide finally what constitutes a fair and reasonable rate much of the ill temper, much of the vehement speech would be obviated if we once came to realize that there are two aspects of this question; that in one aspect it is a judicial question, the final decision of which we can not take away from the courts if we would; while in the other it is a political question, which is under our exclusive control, the right to decide which we can not abdicate nor share with any body or with any other department of government.

Mr. Chairman, all difficulty about distinguishing between the sense in which the question of what constitutes a fair and reasonable rate is judicial and the sense in which it is legislative will be resolved if we recur to a few propositions laid down in the debate on the rate bill when it was before this House. None of these propositions have been questioned anywhere since the close of that discussion, so far as I know.

It is now, I believe, universally accepted that a railway is essentially a public function though operated by private capital; that as a public function it is subject to control and regulation by the state, and the capital engaged in it is entitled to security. The duty of government toward these two elements is therefore twofold: To exact efficient service from the corporation, and to maintain in absolute security the capital by which that service is rendered; and security of capital includes its right to be employed at a profit—a profit on the *capital* remember, not on the *capitalization;* on the property actually invested, not on a false statement of it; on the service by which a community is benefited, not on devices more or less ingenious by which a community is plundered.

If property embarked in railways is entitled to a profit, it must be an actual profit—a profit that is at least tangible. The amount of that profit will not be difficult to define. It can hardly be doubted that the courts will insist property invested in railways or any public enterprise must be left free to earn an amount equal to the minimum profit that money will earn anywhere at the time. That minimum profit is easily ascertained. It is simply the current rate of interest which money will bring in the open market, and of this rate the courts will take judicial cognizance. At this moment, if the question came before them, they would find that the rate which a railway must be left free to earn is somewhere between 3 and 4 per cent on its actual capital. Any law, or order made by authority of law, must be set aside as void under the Constitution which undertook to make railway rates so low that a corporation would not earn such an amount as the courts finally determine to be the minimum profit consistent with its constitutional right. Whether a rate is fair and reasonable in this sense—that is to say, whether it violates or respects the constitutional security of property embarked in the operation of railways—is a question which the courts must determine. Nothing we could do here can limit their power in this respect, and that power the Hepburn bill in no way seeks to disturb.

But there is another aspect of the question, which is not judicial but legislative, which concerns not the constitutional security of property, but a great question of public policy with which the political side of the Government alone is competent to deal. In this country it is a policy of government—whether wise or unwise would be profitless at this moment to discuss, because it is a settled policy—to enlist private enterprise in the operation of public franchises. Now, the only way by which private individuals can be induced to invest capital in this or any form of public service is by offering them opportunity to earn adequate profits.

How much that profit should be—what constitutes such a fair and reasonable rate as will allow such a profit to be earned—and

thus encourage the investment of capital in this form of public service, is a question of policy to be decided by the political or legislative department, with which the courts could not deal effectively, even if we sought to bestow the power upon them. This recognition of a dual aspect to the question of what constitutes a fair and reasonable rate—one touching the fair and reasonable rate which must be allowed to maintain the constitutional security of the property and the other affecting the fair and reasonable rate which should be allowed in order to encourage the investment of capital in railway operation—is the conspicuous feature of the measure passed by this body, and for that reason the Hepburn bill, in my judgment, approaches very closely perfection of legislative work. And, sir, because this feature of the Hepburn bill is its strongest title to popular approval it is the point at which all the covert enemies of any effective measure for the regulation of railway rates direct the full fury of their assaults. Openly professing an eager desire for a liberal court review, they disguise under that mellifluous phrase a demand that every order of the Commission be made subject in all its aspects and features to judicial sanction, in the hope that such a provision will be interpreted as empowering the judges to decide the political as well as the judicial question involved—to fix the fair and reasonable rate which, as matter of policy, a railway should be permitted to earn that the investment of capital in such enterprises may be encouraged, as well as the fair and reasonable rate which as matter of constitutional right it must be left free to earn. Under cover of a pretense that they are deeply concerned about the independence of the judiciary, these gentlemen strive to undermine it by endeavoring to project its authority over matters of policy with which it is wholly unfitted to deal. Any attempt by judges to exercise powers purely political is necessarily foredoomed to failure, while the discredit which must follow inevitably would be a fatal injury to the credit of the courts, and therefore a serious blow to their independence, entailing serious peril to our whole constitutional system.

The Hepburn bill does not seek either to extend or restrict the judicial power. It assumes the Constitution to be the most perfect fruit ever borne by human capacity, and it believes the excellence of the Constitution is nowhere so conspicuous as in its establishment of an independent judiciary. It leaves the courts unchecked authority over all the field where their power can be exercised with credit to themselves and profit to the people. It reserves to Congress full control over matters of policy which belong properly and exclusively to the field of legislation.

Not only is this the boundary fixed by the Constitution between judicial and legislative functions; it is the true line which must always separate them by every principle of sound government.

Conceive for a moment the essential functions of a court.

A court must declare and establish the law, constitutional or statute. The law to be law must be fixed, certain, and definite. The courts therefore can have no power to relax, change, or modify it. The legislature, on the other hand, is created expressly to prescribe new enactments or relax existing statutory provisions, as it may think will serve the public weal. The function of the courts is to ascertain what the law is and then declare it; the function of the legislature is to ascertain what the law ought to be and then enact it. The one thing which a court can never consider is policy. And policy is the one thing the legislature is bound always to consider. The court must declare the law, whatever consequences the judges may apprehend from their decision. If I should step into the Supreme Court and tell the nine judges there assembled that if they declared the law to have a certain significance on all sides men would spring to arms and resist the interpretation; if I could satisfy them that the announcement of a conclusion honestly reached would provoke rebellion—aye, revolution—causing the stones to be taken from the street and hurled against their own chamber; if they felt convinced that the very foundations of this Capitol would rock under the popular indignation which their decision would awaken, still if they be faithful to their oaths they must not hesitate. Even though their conception of the law work disturbance and devastation they must none the less declare it; even though to pronounce a judgment which they believe the law enjoins should entail serious risk to their own lives they must sacrifice the safety of their bodies to the safety of the law. [Applause.]

In declaring the law no discretion is open to them. The discretion sometimes given the judges in dealing with individuals—especially in imposing penalties on offenders against the State—they can never exercise when interpreting the law under which they act. To them the law is master; they its priests and servants. They ascertain it but to obey it, to enforce its provisions, to voice its spirit. The constitutional security of property is fixed beyond the power of any statute to disturb. The court can not suffer it to be invaded by us or by any power on earth, on grounds of policy or on any pretense whatever. Though I should give the judges a thousand reasons of policy for depriving capital invested in railways of profit or for reducing its profits below what money can earn in any other field of industry, they would be bound to ignore my suggestion and set aside a law which impaired in any degree the full constitutional security of this property. They must always and everywhere declare the Constitution, not perhaps as they would have framed it or as they might like to make it if they had the power to change it, but as they find it—as it is—as the framers made it. [Applause.]

But the legislature being required to deal with all matters of policy, it is therefore preeminently a field for the exercise of discretion. Instead of ignoring considerations of policy we should be governed by them. While it remains a policy of the country to invite the employment of capital in the operation of public franchises, the legislature must fix the conditions by which owners of capital may be induced to engage in this form of service. We have the right to say that its profits should be 6 per cent to-day, and to-morrow we might make it 10 per cent, and a week hence 12 per cent, according as the rates of interest for money and the requirements of public convenience affected our judgment. This field of policy being exclusively ours, if we invited the judges to enter it, I am sure they would refuse, and if we atempted to invade the field of judicial authority, they would repel us as we would deserve to be repulsed. The Hepburn bill recognizes these separate spheres, by leaving to the judiciary power to decide what is the reasonable rate necessary to maintain the constitutional security of property while it reserves to Congress power to fix the fair and reasonable rate necessary to encourage the investment of capital in railway operation. [Applause.]

The ingenuity of legislative constitutional lawyers may invent grounds to criticise this measure, but any court responsible to the people, of whose Constitution it is the depository, and governed by the oath of its members will hold that not one word in it conflicts with the fundamental law which is the pact and covenant binding all these States together in indissoluble union and perfect harmony for the establishment of justice.

Mr. Chairman, this measure has been the product of free discussion. The Philippine tariff bill is another evidence of what this House can do when left free to be governed by the patriotism and the abilities of its own membership. On the other hand, the statehood bill, contemptuously rejected by the Senate, and on which this House, I am sure, will not venture to insist, is a striking evidence of the incapacity to which we can sink when the native ability, honesty, and patriotism of our membership are hampered by degrading restrictions imposed on us by the Committee on Rules.

And, sir, as this bill is a proof of what we have done under free discussion, so it is an indication of what this House can always do under similar conditions. Surely no more imposing monument to its ability has been raised by any legislative body in modern times than the fact that every rogue whom this law is intended to control denounces us, while the vast body of the people show their approval of us by absence of genuine criticism. The newspapers owned or inspired by the criminals who have made this legislation necessary affect to deride us, to say we have not properly considered this bill, to pretend that amendments were not even considered while it was here under discussion. And all this, too, in face of the record that at every stage amendments were offered and debated—that not one which any gentleman proposed was refused consideration and on every one a vote was taken. The fact that no amendments were adopted is proof not of undue haste or indifference on the part of the House, but of the care with which the measure was considered and the skill with which it was drawn. I believe it has been the experience of almost every man upon this floor who may have thought the bill could have been improved in some particular that when he undertook to formulate an amendment in every instance he found the foresight of the committee had anticipated his criticism. Certainly that was my own experience, and I believe the experience of others was similar to mine.

Sir, I hope this House, which was not awed by the specter of socialism when it was invoked upon this floor to terrify us, whose members could not be divided on old party lines by any ancient phrases about danger to the Constitution from equipping the Federal Government with power to enforce the rights of every citizen to equal treatment by corporations engaged in interstate commerce, will remain to the last one united body in defense of this, the best product of Congressional deliberation. I fervently trust, sir, we will be unanimous in refusing to ac-

cept the slightest change or modification of its essential features or of its fundamental principle. [Applause.] That fundamental principle is the right of government to control and regulate railways for the twofold purpose of exacting efficient service for the people, and providing absolute security for the property by which the service is rendered. The essential feature of the bill is its recognition of the true line separating judicial from legislative powers—its acknowledgment that what constitutes the fair and reasonable rate necessary to maintain the constitutional security of property invested in railways is a question for the courts, while the fair and reasonable rate to encourage the investment of capital in such enterprises is essentially a question of policy to be decided by the political department of government. [Applause.]

Mr. Chairman, by standing for this bill as it passed the House, even if it should result in the failure of all rate legislation this session, we will go before the people, not as enemies of the judges or the courts, but as their champion and their bulwark. When was a fouler imputation ever cast upon an upright body, when was a darker reproach ever leveled against the judiciary than this anxiety on the part of criminals, who have finally driven the General Government to adopt measures for their regulation that the judges should be clothed with the power not to interpret, but to administer this disciplinary statute.

Is this not an insinuation that these rogues believe the courts of law far from being dreadful precincts where justice must overtake them, are a sanctuary where they would be safe from the pursuit of justice? We, sir, believe the courts within their proper sphere of authority can exercise no power but what is wholesome. Standing by this bill as it left this Chamber, whatever the immediate consequences, we can afford to ask judgment by the people on our critics and ourselves. The issue is not obscure or perplexing. It is simple. It is obvious. All recognize the existence of stupendous wrongs. For these undoubted wrongs we offer the people a remedy. Our opponents offer them a lawsuit. Let the people choose between us.

Mr. Chairman, I had hoped when I took the floor to point out how the rules of this House might easily be amended, so that results such as have been achieved in the passage of this bill and the Philippine tariff bill would not be exceptional but invariable fruits of our labors. But, sir, the time allotted to me is well-nigh exhausted. It would not be practicable now to discuss the matter fully, and partial or incomplete discussion tends to confusion of thought rather than conclusions of value. On some future occasion, when I shall not have already occupied the House at such length—though with a subject which, judging from the attention I have received, is evidently one of sufficient interest to justify the time devoted to its discussion—I shall endeavor to show how the rules as they stand operate to prevent legislative efficiency and to promote legislative incapacity. At this moment I can do no more than point out that we are no longer governed by a majority; we are not even able to ascertain the existence of a majority on any occasion or any subject.

Several questions of tremendous importance have been raised during the debate by Members on that side and on this side, yet no means exist by which the opinions of the House can be taken on any one of them. If the judgment of the House could be taken on the propositions formulated by the gentleman from New York [Mr. PERKINS] on the floor and by the gentleman from Massachusetts [Mr. MCCALL] in his correspondence with the chairman of the Committee on Ways and Means [Mr. PAYNE], there is strong reason to believe that an overwhelming majority would favor immediate action. But on these questions we are gagged, silenced, reduced to absolute, almost ludicrous, impotence. We are ruled, not by a majority—so far as I am concerned I have never questioned the right of a majority to rule—but by three men, a minority so pitiful in numbers, though respectable in character, that it is a parody on legislative proceedings to find the whole House absolutely helpless under their despotic power.

As we have stood together on this rate measure with triumphant results, I am sure if we approach this question of rules in the same nonpartisan spirit the fruits will be equally valuable.

Mr. Chairman, you and I and the different political parties with which we are identified will be contending in a few days for control of this House. You expect to retain the present majority; we hope to reverse it. In the strife that is before us I hope to deliver a few blows. I anticipate much sturdier strokes in return; but whatever the outcome may be, whichever side shall achieve control of this body, I think we should be unanimous now in a determination to make that control a prize worth winning. [Loud applause.]

Speaking, I believe, for an overwhelming majority of this side, we would much rather that the gentleman who will certainly be called to adorn the Speaker's chair if the complexion of the House should change [loud applause]—we would prefer that he preside over an independent, powerful, intelligent House, as I am sure he himself would rather be the servant—the voice—the hands of such a House—than be the despot, the czar, the boss of an impotent, incapable, servile House. [Loud applause.]

Mr. Chairman, I am not speaking for a party here—I appeal to both sides. This House, by the measure which I have been discussing, has shown that it is still abundantly capable of becoming the chief ornament of this Government, as the framers of our constitutional system intended it should be. It would be idle to deny that its importance has dwindled and that its consequence has been eclipsed. May we not hope the best lesson of this rate bill will be a unanimous conclusion that we have but to make the free discussion, by which this surprising success was achieved, a permanent feature of our procedure to restore our credit, regain our power, increase our consequence—to make this House the great and dominating factor of our constitutional system, the rampart of democratic institutions, the glory of representative government and of deliberative bodies here and everywhere throughout the world? [Prolonged applause on the Democratic side.]

The CHAIRMAN. The Clerk will again report the amendment for information.

The amendment was again reported.

The question was taken; and the amendment was agreed to.

Mr. OVERSTREET. Mr. Chairman, I offer an additional amendment, to follow the amendment just adopted.

The Clerk read as follows:

Insert the following: "*Provided*, That out of this appropriation the Postmaster-General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations in such manner as he may think advisable without advertising therefor."

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

For the transmission of mail by pneumatic tubes or other similar devices, $900,000, and the Postmaster-General is hereby authorized to enter into contracts not exceeding, in the aggregate, $1,161,265.84, under the provisions of the law, for a period not exceeding ten years, and with the right of termination at the discretion of the Postmaster-General of any such contract at the end of any year of the contract term after four years, on one year's notice: *Provided*, That said service shall not be extended in any cities other than those in which the service is now under contract under authority of Congress, except the cities of Brooklyn, Cincinnati, Kansas City, and Pittsburg.

Mr. OLCOTT. Mr. Chairman, I would like to ask the chairman of the committee whether this item covers the provision asked for New York.

Mr. OVERSTREET. This item covers entirely the recommendation with respect to New York, with respect to Chicago, with respect to Cincinnati, and other cities.

Mr. CRUMPACKER. I move to strike out the last word. For what new territory is this service to be given?

Mr. OVERSTREET. The territory to which the service is proposed to be extended is Cincinanti, Kansas City, and Pittsburg. We simply put in Brooklyn as a precautionary measure. Brooklyn has been absorbed into greater New York and is included in New York, but we simply designate Brooklyn for fear it might be held not to be included in the cities in which the service is now under contract.

Mr. CRUMPACKER. Is there any question of utility in extending this service? I suppose this service is extended to Cincinnati, Pittsburg, and Kansas City?

Mr. OVERSTREET. I think there is a decided advantage to the Government in the extension of this service wherever congestion of business on the streets by reason of street traffic and where the topography of the territory is such as to make it decidedly unfavorable to wagon service; there is a very decided advantage to the Government, in my judgment, in all of this service. For example, this last summer, during the strike of the drivers of the mail wagons in the city of New York, the tube service was practically the only service upon which the Department relied for a number of days.

Mr. CRUMPACKER. Does it save anything in the way of expense?

Mr. OVERSTREET. I am inclined to think that, on the whole, it is an increased expense, but it is one of those facilities that you can scarcely measure in dollars and cents. If you should add enough individuals to carry the mails by wagons or other devices of a similar character with the same expedition with which this service carries the mail, the expense of that would be much heavier than this expense; but it is a decided

saving in the rapidity of the delivery of the mail to the office from the railway stations and from the substations within those cities.

Mr. CRUMPACKER. I was prompted to make these inquiries from the understanding I had that the bill carries a larger appropriation than the estimate.

Mr. OVERSTREET. No; it is a less appropriation than the estimate.

Mr. CRUMPACKER. I understood it to be larger; but if the service is practicable and feasible, why of course nobody should have any objection to it.

Mr. OVERSTREET. It is decidedly practicable and feasible and important.

Mr. CRUMPACKER. I withdraw the pro forma amendment.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last word.

I wish to call the attention of the gentleman to the fact that there is no longer a city of Brooklyn, and I suggest that an amendment be offered so as to make the bill read, "Borough of Brooklyn, of the city of New York, and the cities of Cincinnati, Kansas City, and Pittsburg." Some technical gentleman in the Treasury Department may raise a question.

Mr. OVERSTREET. There is a post-office in Brooklyn.

Mr. FITZGERALD. Yes; there is a post-office.

Mr. OVERSTREET. And I dislike to substitute "borough" for "city."

Mr. FITZGERALD. There is no city of Brooklyn.

Mr. OVERSTREET. Technically speaking, I suppose the gentleman is correct.

Mr. FITZGERALD. Brooklyn is a borough of the city of New York. It is one of the five boroughs.

Mr. OVERSTREET. It is possible that it would not be necessary to include the word "Brooklyn" at all. It might be included in those cities where the service is already in operation. We only put the word in as a safeguard.

Mr. FITZGERALD. I call the gentleman's attention to the fact that the language of the provision is that said service shall not be extended in any cities except certain ones.

Mr. OVERSTREET. The proviso is that this service shall not be extended to any cities other than those where the service is now in operation. The service is not in operation at Brooklyn, excepting as a part——

Mr. FITZGERALD. It is in operation at Brooklyn.

Mr. OVERSTREET. As a part of New York. It is a part of New York for that purpose. The gentleman's suggestion is to amend it by making it read "the Borough of Brooklyn?"

Mr. FITZGERALD. "Borough of Brooklyn, of the city of New York, and the cities of Cincinnati, Kansas City, and Pittsburg."

Mr. OVERSTREET. I have no objection to that amendment.

Mr. FITZGERALD. I move to strike out the word "city," in line 8, and insert "Borough;" and add, after "Brooklyn," the words "of the city of New York and the cities of."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend so as to read: "Borough of Brooklyn, of the city of New York, and the cities of Cincinnati, Kansas City, and Pittsburg."

Mr. OVERSTREET. I accept that amendment.

Mr. GOLDFOGLE. I failed to hear the amendment read, and I desire to ask that it be read again. I heard the words "Borough of Brooklyn" mentioned, and I desire to know whether the Borough of Manhattan is also included.

Mr. FITZGERALD. The bill now specifically excludes the city of Brooklyn. We simply wish to designate it properly.

Mr. GOLDFOGLE. The city of Brooklyn has been wiped out. It is the Borough of Brooklyn, in the city of New York.

Mr. FITZGERALD. That is what this amendment is intended to state.

The CHAIRMAN. The Clerk will report the amendment again.

The amendment was again read.

Mr. OVERSTREET. I will say to the gentleman from New York [Mr. GOLDFOGLE] that under that amendment and the provision of the bill it will cover all of Greater New York.

Mr. GOLDFOGLE. It will all be included?

Mr. OVERSTREET. Yes.

Mr. GOLDFOGLE. That is satisfactory.

The amendment was agreed to.

The Clerk read as follows:

For inland transportation by railroad routes, $43,000,000.

Mr. STEENERSON. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

Amend by inserting between lines 23 and 24 on page 16 the following: "*Provided*, That the Postmaster-General be, and he is hereby, authorized and directed to readjust the compensation to be paid from and after the 1st day of July, A. D. 1906, for transportation of mails on the railroad routes hereinafter described as hereinafter provided: On railroad routes carrying their whole length an average weight of mails per day exceeding 50,000 pounds by reducing the compensation now allowed by law on such routes 5 per cent per annum, and on railroad routes carrying their whole length an average weight of mails per day exceeding 100,000 pounds by reducing the compensation now allowed by law on such routes 10 per cent per annum, and on railroad routes carrying their whole length an average weight of mails per day exceeding 150,000 pounds by reducing the compensation now allowed by law on such routes 15 per cent per annum, and on railroad routes carrying their whole length an average weight of mails per day exceeding 200,000 pounds by reducing the compensation now allowed by law on such routes 20 per cent per annum.

Mr. OVERSTREET. Mr. Chairman, I reserve the point of order upon that.

The CHAIRMAN. The point of order is reserved.

Mr. STEENERSON. Mr. Chairman, in explanation of this amendment I will say that it carries out the views that I expressed in my remarks the other day. It provides for a progressive reduction of the railway mail pay on roads where the traffic is dense, so that where they carry the average amount of 50,000 pounds per day over the whole route the reduction is 5 per cent of the present rates; where they carry 100,000 pounds per day over the whole route it is 10 per cent; where they carry 150,000 pounds it is 15 per cent, and exceeding 200,000 pounds it is 20 per cent, or one-fifth.

This I believe to be a very reasonable reduction, and it will leave the lowest rate about 4½ cents per ton a mile, or more than five times the average rate for freight.

As will be remembered, I pointed out that the mails on these heavy routes are carried in special trains, a part of which is in storage cars carrying loads of more than 45,000 pounds. That was also pointed out in the letter of the Second Assistant Postmaster-General. I believe that this amendment will effect a fair adjustment, and it will not affect any railroads where the tonnage is less than 50,000 pounds per day. I hope that no point of order will be made against it.

The CHAIRMAN. Does the gentleman from Indiana wish to discuss this point of order?

Mr. OVERSTREET. I reserve the point of order, but I understand the gentleman from Georgia wishes to be recognized.

Mr. HARDWICK. Mr. Chairman, I desire to say that I am heartily in favor of the amendment offered by the gentleman from Minnesota [Mr. STEENERSON], providing for a graduated reduction of railway mail pay, and shall be very glad, indeed, to support it, if I have the opportunity to do so. I realize, however, that the point of order urged against it by the gentleman from Indiana [Mr. OVERSTREET], that it changes existing law, is good, and I do not suppose that the committee will be permitted to vote upon it, for I assume that the gentleman from Indiana [Mr. OVERSTREET] will insist upon the point of order, and thus prevent the committee from voting on the merits of this proposition. Permit me to remark in passing that this incident serves to again call the sharp attention of the House and of the country to the unfair and unequal way in which this "point of order" business is worked in this House. No matter how meritorious a proposition is, no matter how good the change of existing law may be, if suggested by some Member of this House, the point of order is inexorably made, and is insisted upon. On the other hand, if the committee wishes to change not only one but scores or even hundreds of existing laws, all is well, and it is considered the height of impropriety, almost official misconduct, for any ordinary Member to enforce the rule. Indeed, if any Member should prove stubborn and insist upon the committee's complying with the rule, I have heard of an instance, not so long ago, when the poor, bewildered committee, amazed at such unexpected conduct, rushed to the all-powerful Committee on Rules with the old Macedonian cry, "Come over and help us, or we die!

But, Mr. Chairman, let me return to the subject upon which I desired to address the committee. On last Friday the gentleman from Pennsylvania [Mr. SIBLEY] addressed the committee in support of the item carrying an increased appropriation for railway mail pay. I am unwilling that the gentleman's argument shall go unchallenged either before this House or before the country. In his opening remarks the gentleman used these words:

Inasmuch as the total compensation for railway mail pay, including cars, is about $45,000,000.

Now, he is not accurate in his statement as to the amount appropriated for railway mail pay in this bill. The appropriation in the pending bill is $43,000,000 for railway mail pay and $5,875,000 for cars, a total of $48,875,000, which is considerably nearer $49,000,000 than $45,000,000.

The gentleman from Pennsylvania states also that when all the facts are considered it is a great mistake to think that because the appropriation required to compensate the railroads for carrying the mail is large that it is necessarily too large. He also states that "in comparison with other features it is small." Then, taking the average percentage of increase for the last six years as his basis, he institutes a comparison between the item covering the railway mail pay and the general departmental expenditures and three specific items, selected by himself apparently without rhyme or reason.

Selecting the six-year average plan of comparision undoubtedly made his task a much easier one than it would otherwise have been, because the appropriation for railway mail pay carried in this bill for the fiscal year 1907 was 5 per cent greater than it had been for the fiscal year 1906, whereas the same appropriation was only 3 per cent greater for the fiscal year 1906 than it had been for the fiscal year 1905. In other words, the percentage of increase on this item is almost double what it was one year ago.

If he had taken the annual average increase of the total departmental expenditures for eleven years, as given in the report, instead of for six years, he would have found that the annual per cent of increase was 6.4, instead of 8.67, the annual per cent of increase for the last six years. Furthermore, the increase for the fiscal year 1907 carried in this bill is only 5.72 per cent, as against an increase of 5 per cent on the railway mail pay.

There are three specific items also with which he invokes a comparison of this item. Let us see what they are. First, the wagon-service item, carrying $1,227,000; second, the appropriation for postal clerks, carrying $15,000,000; third, the item for postage stamps, carrying $550,000. The total carried in these three items referred to by him is $16,700,000. It will be observed that the first and third of these items are comparatively insignificant ones, while the second item carries the salaries of men employed by the Government on postal cars. Now, let me "select," just as my friend from Pennsylvania has done, four items for the purpose of comparing them with this item of railway mail pay, and I will not select insignificant items or pick them at random, but will at least try to select the largest and most important items carried in this bill.

First. Compensation to postmasters, $24,000,000; an increase for the fiscal year 1907 of 1 per cent over the amount appropriated for the fiscal year 1906, as against 5 per cent increase in the railway mail pay.

Second. Pay of letter carriers (city), $22,280,000; an increase for the fiscal year 1907 of 4.3 per cent over the amount appropriated for the fiscal year 1906, as against 5 per cent increase during the same period in railway mail pay.

Third. For inland transportation by star routes, $7,100,000; an increase for the fiscal year 1907 of 2.7 per cent over the amount appropriated for the fiscal year 1906, as against 5 per cent increase during the same period in the railway mail pay.

Fourth. For rural free delivery $28,200,000, an increase of 12 per cent over the amount appropriated for the fiscal year 1906. But we must remember that the rural free-delivery system is comparatively new, is still growing, is still unperfected, and that this appropriation is not only for maintenance and the regular normal growth of a branch of the service already firmly established, as is the case in every other item referred to both by the gentleman from Pennsylvania and myself, but also includes the expense of extending, enlarging, and perfecting a branch of the service still growing and still undeveloped.

For the fiscal year 1903 we appropriated for rural delivery $7,000,000; for the fiscal year 1904, $12,000,000, an increase of 71.25 per cent; for the fiscal year 1905, $20,180,000, an increase of 66 per cent; for the fiscal year 1906, $25,120,000, an increase of 25 per cent, or while, as I have already stated, the pending bill carries, for the fiscal year 1907, $28,200,000, an increase of 12 per cent. But it must be remembered that the percentage of increase in railway mail pay was almost doubled in the pending bill over the percentage of increase carried in the last post-office bill, and at the same time the percentage of increase in the rural-delivery appropriations has been cut almost half in two.

Mr. LLOYD rose.

The CHAIRMAN. Does the gentleman from Georgia yield?

Mr. HARDWICK. With pleasure; for a question.

Mr. LLOYD. Are you aware of the fact that the committee gave the rural free-delivery service more than was asked for by the Department?

Mr. HARDWICK. Certainly.

Mr. LLOYD. Are you aware of the fact that there will be, according to the present indications, quite a surplus in the Treasury as a result of the appropriations for last year that will not be expended, by nearly a million, and perhaps of that amount——

Mr. HARDWICK. The gentleman from Missouri [Mr. LLOYD] will pardon me, I know; but as my time is limited, I can not yield for more than a question. The gentleman will, I hope, understand that I am not attacking the committee as unfriendly to rural free delivery. I do complain somewhat of the Department on that score. I think the effort is being made by the Department to make up a large part of the deficit in the Post-Office Department at the expense of the rural free-delivery service by making their rules more stringent about the establishment of routes and enforcing those rules more harshly, and thus preventing the greater growth of the system so beneficial to the farmers of the country. I know the committee has recommended more for this service than the Department requested, but I don't think the committee has recommended as much as we ought to have.

Mr. STAFFORD. Is not the gentleman in error when he computes his percentages on the increased yearly appropriations? And should he not consider not the percentages, but the aggregate amount that has been appropriated each year for increased service? A few years ago we only appropriated $7,000,000 for the rural service. When that was increased by $5,000,000 the per cent of increase should be based on the $7,000,000. This year we are appropriating just as much for additional rural mail service as we did last year, though the percentage when it is compared with the increased appropriation of last year will be less.

Mr. HARDWICK. In one sense, the gentleman from Wisconsin [Mr. STAFFORD] is undoubtedly correct about that. But while you may have appropriated as much more money this year over last than you appropriated last year over the year before, yet the rate of comparative increase is, of course, not the same. I am, however, using precentages in this instance, because the gentleman from Pennsylvania [Mr. SIBLEY] used them, and I am endeavoring to reply to his argument.

The three specific items selected for comparison by the gentleman from Pennsylvania [Mr. SIBLEY] carry a total of $16,770,000. The four items selected by me for comparison carry a total of $81,580,000, or excluding, if you prefer, the item of rural free delivery, the three remaining items selected by me carry a total of $53,380,000.

I am perfectly willing to submit it to the judgment of this House and of this country as to whether my comparison or his has been the fairest, and has afforded a more accurate view, from the comparative basis, of the increased appropriation for railway mail pay.

I wish also to call attention to the fact that the only large item selected by him for comparison, namely, $15,000,000 for the pay of postal clerks, and all of the items referred to by me are items that carry the salaries of thousands of men employed by the Government in the various branches of the post-office service. Now, of course, with the gradual growth of the service, the Government must necessarily employ a larger force of men to transact the business, but it is not true that because the Government must hire more men that it can save anything by paying to these men smaller salaries. The Government does not get, nor is it entitled to, any deduction of this kind. On the other hand, "it is a fundamental rule of transportation that the cost per unit of transportation decreases as the density of the traffic increases." The increase in cost of transportation of mails ought not, under any just and fair system of compensation, to increase with the growth of business in any ratio or percentage that is anything like as high or as great as the increase in total salaries paid to the increased force of employees, and yet a study of this question is bound to convince any unprejudiced mind that the cost of transporting the mails by rail increases in even greater ratio than the salaries of the employees who handle that mail.

Now, Mr. Chairman, I wish to attempt an answer to the second proposition laid down by the gentleman from Pennsylvania in support of his position that the railway mail pay is not excessive, is even moderate when compared with other items in the bill. The gentleman insists that he has been convinced by the report of the Wolcott Commission, made to Congress in 1901, that the present rate paid the railroads for transporting the mails is not excessive. I do not believe that the gentleman could have made a more unhappy or more unfortunate reference. There were eight members of this Commission—four from the Senate and four from the House. After eighteen months' work they undertook to report to the Congress the result of their investigations and labors, and found it impossible to agree on any one report that more than two of the Commission would sign. Four of its members, Messrs. Wolcott, ALLISON, MARTIN, and Loud did agree that in their judgment the present rate of railway mail pay was not excessive, but one of these, and probably the most experienced and industrious of them all in this

particular line of legislation, Mr. Loud, earnestly recommended and insisted that the present system of paying for the transportation of the mails was fundamentally wrong—that we ought to pay by space and not by weight—and he earnestly protested that there had been no proper inquiry along that line.

While Mr. Moody, the present able Attorney-General, did agree that the present rate of pay to the railroads for carrying the mails was not grossly excessive, he would not state that it was not excessive at all, and recommended still further investigation. Mr. Catchings agreed with Mr. Moody in this view. Professor Adams, the expert employed by the Commission, recommended a flat reduction of 5 per cent on all rates, and a still further graduated reduction on all railroads receiving in excess of 20 cents per ton per mile for carrying mail. His recommendations were concurred in by Messrs. Chandler and Flemming, the latter gentleman filing a very elaborate and able report in support of his views on this question.

If the gentleman from Pennsylvania [Mr. SIBLEY] can regard anything as "settled" from this report, or from these several reports, and if he can get anything final and conclusive out of this divergence of "views" and varieties of "opinions," he must indeed be possessed of "exceeding great faith."

The gentleman from Pennsylvania [Mr. SIBLEY] quotes from the evidence delivered before the Wolcott Commission by Henry S. Julier, general manager of the Adams Express Company, and by Samuel Spencer, president of the Southern Railway, to show that the railroads receive less pay from the Government for transporting the mails than they do from the express companies for transporting the express.

The gentleman does not undertake, of course, to give all the testimony of these witnesses, but merely gives a summary of that evidence, which summary was, I understand, compiled by Mr. W. W. Baldwin, of the Burlington route. I contend that this "summary" of Mr. Baldwin's is inaccurate, incorrect, and liable to be misleading. In the first place neither of the witnesses uses the exact language imputed to him by Mr. Baldwin, and while the summary is in the main correct, it is incorrect and incomplete in that it does not undertake to state the qualifications put by the witnesses themselves upon their own evidence, or to give the basis upon which they figure in order to arrive at the results stated by Mr. Baldwin and quoted by the gentleman from Pennsylvania. For instance, in order to make his comparison between mail and express rates Mr. Julier insisted upon adding to the actual amount paid by the express company to the railroad the sum of $242,000, which he claimed was compensation for the "services of men used jointly with the railroad companies, rental of rooms at depots, etc."

On the other hand, before he would make the comparison between mail and express rates, Mr. Spencer insisted on subtracting from the amount actually received by the railroad for transporting the mail "a portion of the total mail pay, which may be properly considered as received for hauling post-office employees, for supplying and hauling post-office cars, for carrying the mails between stations and post-offices, and for special fast train service."

Neither of these witnesses, pursuing the exactly opposite course of figuring, the one adding to the amount actually paid by the express companies, and the other subtracting from the amount actually paid by the Government, undertook to give the Commission, so far as I have been able to discover, any definite, precise, and detailed information as to the amounts added in the one case and subtracted in the other, and there is strong reason to believe that neither system of "figuring" is wholly accurate and entirely fair.

I know full well that my friend from Pennsylvania [Mr. SIBLEY], who is a gentleman of the very highest character, beloved and respected by every Member of this House, would not intentionally mislead the House by either an inaccurate or a partial quotation, and I have no reason to believe that Mr. Baldwin, from whose paper on the comparison of express and mail rates these "quotations" were taken, would intentionally mislead anyone, but I submit that if the statements are allowed to go in the record unchallenged they would be calculated to mislead, however innocent of intention to do so my friend from Pennsylvania [Mr. SIBLEY] or Mr. Baldwin might be.

Again, the gentleman from Pennsylvania [Mr. SIBLEY] puts in his speech a brief extract from the report of Mr. Moody as a member of the Wolcott Commission. The concluding paragraph quoted from Mr. Moody by the gentleman from Pennsylvania is as follows:

> Beginning with 1880 (the first year in which all the statistics were available for comparison) passenger rates have decreased 21 per cent, freight rates 44 per cent, and mail rates 39 per cent.

The gentleman from Pennsylvania then triumphantly exclaims:

> Now, unless some one can answer that argument of Mr. Moody's, there is nothing in the contention that the rate must be excessive because the law has stood for so many years.

Mr. Chairman, I will undertake to "answer the argument of Mr. Moody's" by quoting the very next sentence of Mr. Moody's own report:

> This would seem satisfactory were it not for the facts that during the same period the passenger mileage of passengers increased 233 per cent, the ton mileage of freight 353 per cent, and the ton mileage of mail 579 per cent, and that there had resulted large concentrations of mail on certain routes.

I am inclined to partially agree with the gentleman from Pennsylvania when he asserts that the public has very little accurate information on the subject, and that there is no such amount of excessive pay as is generally believed by the public; still I firmly believe that the pay is, to some extent, generally excessive, and in some instances, because of the large concentration of mail, grossly so. I think Congress ought to follow the advice of the able expert employed by its last Commission, who brought to a laborious and painstaking investigation of this subject, extended through many months, a splendidly trained and thoroughly impartial mind. If the advice of this expert, Professor Adams, were accepted, the law would be so amended as to provide for a general reduction of 5 per cent in railway mail pay, and a still further graduated reduction on all routes receiving more than 20 cents per ton per mile. (See report of Professor Adams, Part II of the testimony, page 171.)

That this recommendation has gone absolutely unconsidered by this House during the long period of more than five years that has elapsed since that report was received by it, is but another of the numerous sins of omission for which the party in power must finally answer to the American people. The report of the Postmaster-General, made to this Congress at the beginning of the present session, clearly states that that officer is not entirely satisfied with the present status of the pay received by the railroads for transporting the mails. On page 66 of his report he uses these words:

> The law relative to rates of payment for railroad mail transportation has not been changed since 1873, except as it has been modified by the laws of 1876 and 1878, by which a reduction in the rates of 10 and 5 per cent, respectively, was made.
>
> The present method of determining the rates of pay for this service is not altogether satisfactory; and while I am not yet prepared to suggest specific changes, it is believed that certain inquiries that are being instituted through departmental channels will afford data on which to base future recommendations.
>
> The plan now followed appears to furnish a somewhat uncertain basis upon which to make annual expenditures exceeding $40,000,000.

In opening the debate on the pending bill, on April 5, 1906, one of the most able and upright members of the Committee on Post-Offices and Post-Roads, my friend from Tennessee [Mr. MOON] made this statement to the House:

> One of the most important questions, in my judgment, for the consideration of this House is the question of railway mail pay. From year to year there is an increase in the pay demanded by the railroad companies of the United States for transportation of mails. Gradually there is an increase in appropriations. It must be conceded that the growing business of the country and the population of the country contribute largely to this demand, and its accessions on the part of Congress to the railroad companies of the United States, but this committee has never had the information; it has not now the information; the Government of the United States has not the information, and no man within the sound of my voice has information with which to act intelligently and pass an opinion as to what the proper and just pay ought to be to the railroad companies for the transportation of mails. I venture the assertion that there is not a member of the committee on Post-Offices and Post-Roads of the House, or in the Senate, who can come within $10,000,000 to-day, from any proper basis of calculation, as to what legitimately ought to be paid to the railroad companies of the United States for this service.

What striking language to be used by a veteran legislator, an experienced, industrious, and able member of the committee, and the ranking Democrat of the committee, and yet no gentleman on either side of this House, except the gentleman from Pennsylvania [Mr. SIBLEY] has taken up the challenge or gainsaid the statement.

Mr. Chairman, so far as I am concerned I am not satisfied that the present rates of railway mail pay are right. I think that we ought at once to follow the recommendation of our own expert, Mr. Adams, and then we ought to institute a thorough and comprehensive examination into the whole question, so as to determine exactly what is the proper system of paying the railroads for the transportation of the mails, and just how much they ought to be paid in order to allow them a reasonable and just, but not an excessive, compensation for this service.

Mr. OVERSTREET. Mr. Chairman, I insist upon the point of order. The amendment is clearly contrary to existing law.

The CHAIRMAN. The point of order is sustained.

Mr. STEENERSON. I offer the following amendment.

The Clerk read as follows:

Amend the bill by striking out the words "forty-three million dollars," in lines 22 and 23, and inserting in lieu thereof the following: "forty million dollars: *Provided*, That before said sum shall be expended the Postmaster-General shall, and he is hereby authorized to, readjust the compensation to be paid from and after the 1st day of July, A. D. 1906, for transportation of mails on railroad routes carrying their whole length an average weight of mail per day exceeding 50,000 pounds, by reducing the compensation now allowed by law on such routes 20 per cent per annum."

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that amendment.

The CHAIRMAN. The point of order is sustained.

Mr. STEENERSON. I desire the gentleman to reserve his point of order.

Mr. OVERSTREET. I reserve the point of order.

Mr. STEENERSON. I desire to say, Mr. Chairman, that this is substantially the same amendment as I offered a moment ago, except it makes a reduction of 20 per cent on the rates where the density of the mails is not exceeding 50,000 pounds per day. It is drawn in a straight way where this is to be paid. I desire to say that I have examined the laws of 1876 and 1878, reducing the amount of railway mail pay 10 per cent and 5 per cent, respectively, and I find that they were riders on appropriation bills the same as this provision; and it seems to me that the Chairman ought to distinguish this proposed amendment, because it simply amounts to a limitation upon the appropriation, and therefore is not subject to the point of order.

I believe it is the consensus of opinion of this House that the railway mail pay ought to be reduced. The Postmaster-General has suggested it, as shown by the gentleman from Georgia [Mr. HARDWICK], and I believe this is a reasonable reduction.

The CHAIRMAN. The point of order is sustained.

Mr. MACON. I move to strike out the last word for the purpose of asking the chairman of the committee a question. I notice in the list of expenditures that you mention in detail in your report the first one is, "Transportation of mails on railroads, $39,384,916.17." And here in this provision that we are just passing it provides:

For inland transportation by railroad routes, $43,000,000.

What is the reason for that discrepancy between the report and the bill?

Mr. OVERSTREET. Mr. Chairman, under the law rates are fixed for the pay of railroads for carrying the mails. Those rates are determined by the weight of the mail and the distance carried. For the convenience of ascertaining this information as a basis for the calculation of the amount of the appropriation, the entire country is divided into four divisions, and in each one of those separate territorial divisions the mail is weighed once in four years for a limited period, and the calculation of the entire weight of that section is made on that basis. Then the appropriation is carried uniformly for four years for that division. The expense on the four divisions at the close of the last fiscal year is the amount to which the gentleman has just made reference, stated in the report of the committee; but during the present spring a new weighing period occurs in the western division, which includes all of the States and Territories west of the Mississippi, excepting, as I remember, three States not included.

The experience of the Government shows that by reason of the increased volume of business the increased weight of the mail since the preceding weighing of four years ago in that section will be from 15 to 17 per cent. Hence we have taken the annual rate on the 30th day of last June for each of three remaining divisions and added to the annual rate for the western division 15 per cent of that amount. Therefore we increase the total by the difference between what the law carries for the current year and the amount in this item.

The CHAIRMAN. If there be no objection, the pro forma amendment will be withdrawn.

Mr. HARDWICK. I move to strike out "forty-three" and to insert "forty" in lieu thereof.

Mr. OVERSTREET. Mr. Chairman, that would not affect the right of payment nor the claim for payment. It would merely delay it. I hope the amendment will be voted down.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. HARDWICK. Upon reflection, as the pay is fixed by law, the amendment might just as well be withdrawn. I should like to reduce the rate of pay, but we must, of course, pay the railroads what the law provides.

The question being taken on Mr. HARDWICK's amendment, it was rejected.

The Clerk read as follows:

And the Postmaster-General shall require a record from July 1 to December 31, 1906, of all second-class mail matter received for free distribution, and also at the 1 cent a pound rate, so as to show the weights in pounds, respectively, by classes, of daily newspapers, weekly and other than daily newspapers, magazines, scientific periodicals, educational periodicals, religious periodicals, trade-journal periodicals, agricultural periodicals, miscellaneous periodicals, and sample copies of said newspapers, magazines, and periodicals, and make report to Congress of such information by February 1, 1907, together with an estimate of the average length of haul of said respective classes above named.

Mr. BARTLETT. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Insert at page 17, line 24, end of line:

"And in the meantime, and until said report is made, whenever any person or corporation shall apply to the Postmaster-General for the admission of any newspaper or publication to the mails at the second-class rate, and such application shall be denied or refused, such person or corporation shall have the right, and is hereby empowered, to apply for a writ of mandamus to the supreme court of the District of Columbia, or to the justices or any justice thereof; and the proceedings therein shall be had and governed as is provided for in the issuing, granting, and trial of such writs of mandamus in chapter 42 of the Laws of the District of Columbia, enacted March 3, 1901, and as amended by acts approved January 31 and June 30, 1902, and embraced in sections 1273 to 1282, inclusive, of said Code of the District of Columbia; and if upon the trial and hearing of said application for writ of mandamus it shall be decided by the supreme court of the District of Columbia, or the justices or any justice thereof, that such newspaper or publication is, under the law governing the admission of newspapers and publications to the mails as second-class matter, entitled to such admission, then it shall be the duty of said court, or said justices or any justice thereof, to issue the writ of mandamus directed to the Postmaster-General, requiring him to admit such newspaper or publication to the mails as second-class matter; the costs in such proceeding to be paid by the person or corporation making application for the mandamus."

Mr. OVERSTREET. Mr. Chairman, I reserve the point of order on that amendment.

The CHAIRMAN. The point of order is reserved.

Mr. BARTLETT. Mr. Chairman, I am much obliged to the gentleman for reserving the point of order instead of making it, but I wish to state that in my opinion the amendment is not subject to a point of order. I had just as well argue the point of order now. I understand the gentleman to reserve it, but I will argue it as if it were made.

Mr. OVERSTREET. I will make the point instead of reserving it, if the gentleman desires.

Mr. BARTLETT. No; I will argue the point of order, because I am prepared to do that; and after arguing the point of order I wish to say something with reference to the merits of the amendment itself.

Mr. OVERSTREET. I would prefer that the gentleman confine his remarks to the merits of the amendment, for the five minutes. Then let us dispose of the point of order afterwards.

Mr. BARTLETT. Then I will argue the merits, but I do not wish to be understood as conceding that the point of order is good, because I think that the amendment is not subject to the point of order.

Mr. OVERSTREET. If I understand the gentleman, he wants to make two speeches—one on the point of order and one on the merits of the amendment. Is that right?

Mr. BARTLETT. Yes; if you please.

Mr. OVERSTREET. Will the gentleman's remarks be along the same line of argument as he addressed to the committee the other day?

Mr. BARTLETT. No; I am not following the example of some of my good friends and repeating a good thing. [Laughter.] Mr. Chairman, the point of order I discuss first is this: I apprehend that a point of order to be good must be that the amendment changes existing law or that it is new legislation. The provision in the bill itself, commencing with line 12 on page 17, down to line 2 on page 18, is new legislation, and admittedly so. There is no question about it.

Mr. OVERSTREET. If the gentleman will permit me, the hour is growing late, and it is needless for us to debate about this proposition. The provision of the bill to which the gentleman refers is undoubtedly subject to a point of order if the gentleman wishes to make it.

Mr. BARTLETT. I have not made it; I shall not make it; but I have offered an amendment to it.

Mr. OVERSTREET. I can not accept, as free from the point of order, the statute which the gentleman proposes to engraft upon this provision. I think there is no Member of this body but approves of the provision in this bill.

Mr. BARTLETT. I do approve of it.

Mr. OVERSTREET. But if the gentleman is going to make a point of order on this item in the bill, then I will concede that it is subject to the point of order.

Mr. BARTLETT. But I am not going to make it.

Mr. OVERSTREET. I can not waive the point of order on the amendment.

Mr. BARTLETT. I have not asked the gentleman to waive it. I do not think it is subject to the point of order. And I also think, in justice to the people of the United States, in the interest of proper service in the Post-Office Department, in order to defeat a tyrannical and despotic rule that prevails in the Post-Office Department, the gentleman ought to waive the point. But, Mr. Chairman, I insist that the point of order is not good, and I started to say why I thought it was not good.

I desire to say that it has been admitted by the gentleman from Indiana, chairman of the committee, that this is new legislation. The point of order has not been made against it, and therefore it remains in the bill. Now, any amendment, if it is germane to this proposition, is in order. I apprehend that I need not call the attention of the Chair, so experienced a parliamentarian and so accustomed to preside in Committee of the Whole, and whose decisions are so uniformly accepted as correct, to the proposition, but I will refer the Chair to page 324 of the Manual.

The CHAIRMAN. There is no question but that the gentleman from Georgia has correctly stated the proposition.

Mr. BARTLETT. Then, Mr. Chairman, this being a new proposition ingrafted on this bill, a new law on the subject, the Chair will see that I have simply provided that pending this investigation and report these people shall have the right to appeal to the courts. Now, this section deals with the subject of second-class mail matter. The law upon the subject is that second-class matter shall be admitted to the mail on application to the Third Assistant Postmaster-General, stating the number of bona fide subscribers and various other requirements, and that the paper thereupon shall be admitted at the cent-a-pound rate. It is information upon that subject that this provision undertakes to provide shall be obtained by the Postmaster-General. This amendment simply provides that in the meantime, and until that report is made, those persons who apply to the Third Assistant Postmaster-General to have newspapers or other publications admitted at the second-class rates, during the time under which this investigation is to be had—during the time in which the material for this report is to be got up, which is to be sent to Congress—that these persons designated—not everybody, it is not a general statute, but the people who make application during this period of time—shall have the right to appeal to the courts when they are denied access to the mails by the Third Assistant Postmaster-General; that they shall pay the cost of the proceedings in order to have the matter reviewed and determined.

Now, I grant you, Mr. Chairman, that if this amendment had been for the purpose of making a general statute, it might be—although I have some doubt about it—subject to a point of order; but I have made this amendment to comply with the purposes of the provisions incorporated in the bill by the committee. Therefore I think I have clearly brought myself within the rules that if the paragraph on the appropriation bill changes existing law, it may be perfected by a germane amendment which also changes existing law. That precise question was decided in the Fifty-seventh Congress, first session, and may be found in the RECORD, page 1468, and there are numerous other cases upon that very point. It has been decided at the present session of Congress when the judicial, legislative, and executive appropriation bill was under consideration and new provisions were inserted in the bill changing existing law, creating new offices and new salaries, an amendment was offered, while the bill was being considered under a special rule made by the Committee on Rules, and although the amendment changed existing law, the Chairman, Mr. OLMSTED, ruled and held correctly, as the present occupant of the chair well knows, that an amendment to a provision of the bill which itself created a change of law was admissible.

Therefore, Mr. Chairman, the question reverts, Is this amendment germane to this section? The gentleman from Indiana did not make the point that it was not germane, but I propose to meet it. His proposition was that it was engrafting a statute on an appropriation bill. That is true, but the committee itself having first engrafted a new statute on an appropriation bill, if I can draw my amendment so that it is germane to the new provision that they have put in the bill, then I am permitted to do it under the rule.

It is germane, Mr. Chairman, if I may be permitted to repeat what I have said. The purpose of the provision is that the Postmaster-General shall require a record of all second-class mail matter. It deals exclusively with second-class matter. It says newspapers, magazines, and periodicals. I have not used the exact language in the amendment used in the section, but, if it is necessary, I will change it so as to correspond in words. I used the words "newspapers or other publications." I apprehend that the words "newspapers and other publications" would include magazines, scientific periodicals, educational periodicals, religious periodicals, trade journals, etc. So while I have not in so many words and in detail set out in the proposed amendment each one of these publications that the gentleman from Indiana has set out in the section, I have the word "newspapers" and I have also the words "other publications," and these embrace all the subjects referred to in the section. Therefore this amendment of mine undertakes to deal only with the subject that the provisions of the bill deal with—that is, newspapers or any other publications. The other words of it are that any person who during this time, during the time from July 1, 1906, to December 31, 1906, who offers a publication or a magazine or a newspaper of the character described in this amendment for admission to the mails as second-class matter, if it is denied, if part of this information which Congress seeks to obtain by this provision is denied at the Post-Office Department, then that person who undertakes to enter his newspaper, his magazine, or periodical, or whatever it may be, may seek the courts in order to have Congress fully informed of all the second-class matter that ought to be in the mails and that is improperly excluded from the mails.

Now, Mr. Chairman, having said that much upon the matter of the point of order, and by the courtesy of my friend from Indiana, I will discuss the purpose of this amendment, and I shall do so briefly. Mr. Chairman, if I had the time I could fill the RECORD of this House—pages, at least—with complaints, with evidence, with facts, which show the absolute disregard of the law of the land by this department of the Post-Office in dealing with citizens who wish to have their publications admitted to the mails at the second-class rate. I say that we ought not to permit that to be done. I insist that it should not be the policy of this American Congress to sit silent and idle when there comes up from all over this broad land of ours loud and just complaints, supported by substantial and uncontradicted facts, that the law of the land is being administered in a despotic and tyrannical way in the Post-Office Department, by which the right to have access to the mails, for the carrying of which they contribute taxes, is denied. This is a land of law. Every man ought to be made obedient to it—the high Postmaster-General, the First-Assistant, the Second, or Third, as well as everyone else. To use the language of a great Chief Justice in the case of Marbury *v.* Madison, a case of note at the time rendered, and still is (to be found in 1 Cranch, U. S. Reports), a case in which the Chief Justice, John Marshall, declared that the right to the writ of mandamus existed in this country that could be enforced in a proper court of proper jurisdiction, even against the Secretary of State. I desire here now to repeat the words of that great Chief Justice.

> The Government of the United States has been emphatically termed a Government of laws and not of men. It would certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right. If this obloquy is to be cast upon the jurisprudence of our country, it must arise from the peculiar character of the case.

While I have on occasions heretofore called the attention of the House and of the country to peculiar facts in a certain case, I desire now to say that this amendment which I have offered, as I have a right to do, is not, in my opinion, obnoxious to any of the rules of the House. I have offered this amendment that for the time—at least, until Congress can be made to realize the wrongs that are perpetrated in the name of law by the Third Assistant Postmaster-General and those in his office against citizens of this country—something may be done for the relief of the people, and I present it, Mr. Chairman, feeling confident and convinced that in doing it at this place to amend this provision of the bill I do not violate any of the rules of the House or parliamentary bodies with reference to germaneness. The gentleman from Indiana and his committee, having seen fit to report to the House a bill providing for a change in existing law as to second-class matter in one material point, I call upon the House, I call upon the distinguished Member of the House now occupying the chair, unless it is so clearly violative of the rules of the House as to be overruled, I call upon him not to destroy the only opportunity that the people of the country will have at this Congress to remedy this great and crying wrong and to destroy this tyranny and despotism that exists in the Post-Office Department.

Mr. LIVINGSTON. May I ask the gentleman whether under the Constitution the Postmaster-General or the Third Assistant in either case is not subject now to a mandamus? Has any court ever held to the contrary?

Mr. BARTLETT. Well, I have a couple of cases in my hand,

which I will not read, because I promised to be short, which indicates that it has not.

Mr. LIVINGSTON. Has there been a test case?

Mr. BARTLETT. I think there has, and one is reported in 194 United States. The Supreme Court say in that case that they will not overrule the discretion of the Postmaster-General in denying admission to the mails. They pretermit the question. I will not use the word "dodge" with reference to the Supreme Court, but they decided the case upon some other point. [Loud applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. OVERSTREET. Mr. Chairman, I desire to say, in explanation of this, that the provision carried in this bill simply requires a report to Congress on the 1st of February next of a compilation of information which the Postmaster-General will then have made. Not a particle of second-class matter under the law can be accepted in the mail until it has been weighed and the postage paid. We simply require by this item that the record made of mail of these various classes of second-class matter shall be compiled in a record and a report made to Congress.

Now, the gentleman's amendment does change existing law. It changes existing law by requiring that the matter which has been excluded from the mail under existing law shall be received by the Government as second-class mail matter. The law relative to second-class mail is a statute which requires that certain things be done under which the Postmaster-General will accept it, provided these requirements have been fulfilled. If they have not been fulfilled, then the second-class privilege is denied. The gentleman's amendment obliges the Postmaster-General to accept this class of mail, even if under existing law it has been excluded. Therefore his amendment is subject to the point of order, both because it is not germane to this particular item of the bill and because his amendment does change existing law. Assuming, merely for the purpose of the argument, that the item contained in the bill would be subject to a point of order, which, I think, is not true, still that point has been waived.

Mr. BARTLETT. You admit that it was subject to the point of order?

Mr. OVERSTREET. I think I made a mistake, upon reflection, and I always admit my mistakes when I think I have made them. Admitting, for the sake of the argument, that possibly the item in the bill would be subject to a point of order, the point of order was waived when the amendment was offered and considered. Therefore, because this item of the bill simply calls for a record under existing law, this amendment would change existing law, because it would change the very statute under which such matter is accepted. I insist upon the point of order.

Mr. BARTLETT. One word in reply, Mr. Chairman. The gentleman has admitted that the provision was a change of existing law. If it is, then under my contention my amendment is in order. It is germane, and therefore in order. If it is not a change in existing law, then the amendment to existing law is also germane; but this provision is a change of existing law. There never was anything in any appropriation bill or any statute which required a report to Congress of the matters referred to in this section, or that this record be kept. For the first time the gentleman has inserted it in this appropriation bill and it has, since no point of order has been made against it, come before the House for consideration. Now he endeavors to get rid of the force and effect of that proposition by saying he was mistaken when he said it is new legislation. The gentleman, I apprehend, is not mistaken; it is new legislation. But if he take either horn of the dilemma he finds himself in, I am satisfied that this amendment is germane. It is of so much importance, is so just and proper, that I had hoped the gentleman would not insist upon the point of order.

The CHAIRMAN. Whether the provision in the bill as reported was in order or not, an amendment to it must be germane. But on the assumption that the provision was not in order, no point of order having been raised, of course it is in the bill. The question comes down to this point: An amendment thereto must first be germane; second, it must not add any new matter of legislation not contained in the provision the point of order upon which has not been raised.

Now, the provision in the bill provides for what? For a record of the transactions of the service and a report thereon to a future Congress. The amendment provides for a trial in a court and provides the machinery for relief where the complainants believe a wrong had been perpetrated; therefore it seems to the Chair——

Mr. BARTLETT. Will the Chair permit an interruption?

The CHAIRMAN. Certainly.

Mr. BARTLETT. If the Chair will look at the words at the beginning of the amendment, he will see that it is provided that in the meantime, and until said report is made—thereby referring to the very provision of the bill itself.

The CHAIRMAN. The Chair does not see that that changes the situation. The subject-matter of the provision is a record and a report. The subject-matter of the amendment is a writ of mandamus in case a wrong is perpetrated or is said to have been perpetrated.

But further than that, the amendment is obnoxious to the rule, which says that an amendment must be simply to perfect the text, and must not bring in some additional question of legislation. In the opinion of the Chair, this amendment is not germane, and it does propose to incorporate in the bill a new matter of legislation. Therefore the Chair is constrained to hold the amendment not in order.

Mr. BARTLETT. Then, Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Georgia offers another amendment, which the Clerk will report.

The Clerk read as follows:

After line 24, page 17, insert: "And in the meantime and until said report is made, when any person or corporation shall apply to the Postmaster-General for the admission of any newspaper or publication to the mails as second-class matter, and the same shall be denied admission to the mails as second-class matter, then such person or corporation shall have the right to an appeal to a board of appeals, hereby constituted and created for that purpose, to consist of the Postmaster-General, the First Assistant Postmaster-General, and the Second Assistant Postmaster-General, who shall hear such appeal and the facts submitted by such person or corporation making the appeal, and if, in the opinion of such board of appeals so constituted as above stated, said newspaper or publication is entitled under the law to be admitted to the mails as second-class matter, then such board of appeals shall so find and determine, and shall order said newspaper or publication to be admitted to the mails as second-class matter."

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that amendment for the same reason that I did against the other.

Mr. BARTLETT. Now, Mr. Chairman, this amendment does not send the question to the court for adjudication at all. It simply puts it in the hands of the Postmaster-General and the First and Second Assistants, in order to determine what shall be done with the newspapers or other publications that are trying to be admitted to the mails at second-class rates in the intervening time and until this report is made. It is simply in addition to the scheme provided for in this section for carrying out the will of Congress; a means not by which the court, but by which the Post-Office Department itself undertakes to carry it out. The other amendment did not deal entirely with the Post-Office Department, but this amendment proposes to legislate in reference to certain duties and to impose certain requirements upon the Postmaster-General. Now, this provision itself says that the Postmaster-General shall require a record to be kept. This amendment simply requires that the Postmaster-General and the First and Second Assistant Postmasters-General shall also, in addition to what is required to be done, do certain additional things to carry out the will of Congress in order to make the record complete. It does not undertake to provide for an appeal to the courts, but simply deals with the duties and requirements of the Postmaster-General.

Now, the bill itself, in the paragraph beginning with line 12, page 17, makes provision that the Postmaster-General shall require certain things to be done. In addition to requiring those things to be done this amendment requires the Postmaster-General, aided by the First and Second Assistant Postmasters-General to do certain other things in carrying out the purpose of Congress. It seems to me that the distinction between the two amendments is clear, Mr. Chairman, and that this amendment clearly is not subject to the point of order made by the gentleman from Indiana.

The CHAIRMAN. The provision of the bill relates to keeping a record of certain events and reporting thereon. The provisions of the amendment relate to the entry of certain mails under certain classes. Therefore it is new subject-matter, and is not germane to the amendment, and the Chair is again constrained to sustain the point of order.

Mr. OVERSTREET. Mr. Chairman, just two small items and then I will move that the committee rise. I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

Insert after line 2, page 18:

"The chief officer of the several Executive Departments, independent bureaus, and Government establishments, having headquarters in Washington, D. C., shall maintain from July 1 to December 31, 1906, a record of all mail entered at Washington by each under the penalty privilege during said period, so as to show the character and

quantity of said mail by the several classes of mail as defined by law, and report to Congress not later than February 1, 1907, the number of pieces and weight by the said several classes of mail, and the amount of postage which would have been required for each of said respective classes, calculated at the regular postage rates, as provided by law."

The amendment was agreed to.

The Clerk read as follows:

For railway post-office car service, $5,875,000.

Mr. MACON. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Page 18, in line 4, after "dollars," insert: "*Provided*, That no part of the sum herein appropriated shall be expended for the payment of rent of railway post-office cars not in actual use in the service of the transportation of the mail."

Mr. OVERSTREET. Mr. Chairman, I make the point of order against that amendment. I want to say to the gentleman from Arkansas that no such payment is now made.

Mr. MACON. I understood that in the hearings before the committee it was shown that there were 215 of these cars on which payment was made which were not so in use.

Mr. OVERSTREET. No, sir; there is not a dollar paid for a railway post-office car except for the actual travel of the car—the mileage of the car based upon the law.

Mr. MACON. In the proceedings before the committee did not General Shallenberger, or whoever has charge of that matter, say that there were 215 of them paid for annually that were not in use, and that there was no warrant of law for paying for them, either?

Mr. OVERSTREET. No payment is made except for the actual service of the cars.

Mr. MACON. Why did he tell the committee, then, that he paid for 215 cars that were not in use?

Mr. OVERSTREET. I do not think he said that, because the law would not justify it. I think the gentleman must clearly have misunderstood him.

Mr. MACON. He stated clearly that it was done, and that there was no warrant of law for it.

Mr. OVERSTREET. I do not want to appear as disputing what anybody has said. I merely state what the law is—that no car is paid for except for actual service.

The CHAIRMAN. The Chair is ready to rule.

Mr. FINLEY. Mr. Chairman, I think this view is properly justified to some extent by the statement of the Second Assistant to this effect—that your car pay is not per car, but per line; and I want to say to this committee that it is a pretty difficult matter for me to figure out to a nicety exactly how that pay is made up. I know what is said to constitute a line.

Mr. OVERSTREET. But the R. P. O. car pay is for service, and there is no pay granted where there is no service.

Mr. MACON. On the point of order I desire to state that the amendment is a limitation upon the appropriation and certainly in order.

The CHAIRMAN. The Chair is about to rule with the gentleman from Arkansas. The Chair thinks the amendment is in order. The question is on agreeing to the amendment offered by the gentleman from Arkansas.

The question was taken; and on a division (demanded by Mr. MACON) there were—ayes 32, noes 51.

So the amendment was rejected.

Mr. OVERSTREET. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SHERMAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16953—post-office appropriation bill—and had come to no resolution thereon.

FIVE CIVILIZED TRIBES.

Mr. SHERMAN. Mr. Speaker, I desire to present for printing in the RECORD the conference report on the bill (H. R. 5976) to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

The SPEAKER. The conference report will be printed under the rule.

COURTS IN THE SOUTHERN DISTRICT OF TEXAS.

The SPEAKER laid before the House the bill (H. R. 12863) to create a new division of the southern judicial district of Texas, and to provide terms of court at Victoria, and for other purposes, with Senate amendments.

The Senate amendments were read.

Mr. BURGESS. Mr. Speaker, I move that the House concur in the Senate amendments.

The motion was agreed to.

MEMORIAL EXERCISES ON THE LATE REPRESENTATIVE HON. JOHN M. PINCKNEY.

Mr. SLAYDEN. Mr. Speaker, I want to ask unanimous consent to vacate so much of the order made on March 7 as fixed April 15 as the day for addresses on the life, character, and services of the late Hon. JOHN M. PINCKNEY, late a Representative from the State of Texas, and to offer the following order, which I send to the Clerk's desk.

The Clerk read as follows:

Ordered, That a session of the House be held on Sunday, April 29, and that the day be set apart for addresses on the life, character, and public services of Hon. JOHN M. PINCKNEY, late a Representative from the State of Texas.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection; and the order was agreed to.

The SPEAKER. The Chair will state that leaves the order standing on April 15 for memorial services on the life, character, and public services of Hon. BENJAMIN F. MARSH, late a Representative from the State of Illinois.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 13154. An act for the relief of John T. Irion;

H. R. 9165. An act authorizing the Secretary of the Interior to issue patent to the Scandinavian Evangelical Lutheran Little Missouri River congregation to certain lands for cemetery purposes;

H. R. 2996. An act to reimburse Capt. Sydney Layland for sums paid by him while master of the United States transport *Mobile* in July and August, 1898; and

H. R. 16140. An act to authorize the maintaining and operating for toll an existing structure across Tugaloo River, known as "Knox's bridge," at a point where said river is the boundary between the States of South Carolina and Georgia.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 59. An act providing for the establishment of a uniform building line on streets in the District of Columbia less than 90 feet in width—to the Committee on the District of Columbia.

S. 5537. An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska—to the Committee on Public Lands.

S. 5288. An act appropriating $5,000 to inclose and beautify the monument on the Moores Creek battlefield, North Carolina—to the Committee on the Library.

S. 4806. An act to regulate the landing, delivery, cure, and sale of sponges—to the Committee on the Merchant Marine and Fisheries.

S. 4805. An act to prohibit aliens from taking or gathering sponges in the waters of the United States—to the Committee on the Merchant Marine and Fisheries.

S. 4487. An act granting to the State of Oregon certain lands to be used by it for the purpose of maintaining and operating thereon a fish hatchery—to the Committee on the Public Lands.

S. 3820. An act for the relief of Eunice Tripler—to the Committee on Claims.

S. 3482. An act to provide for the paving of a portion of Florida avenue between P and Q streets NW., city of Washington, D. C.—to the Committee on Appropriations.

S. 3283. An act for the relief of John H. Haunter—to the Committee on War Claims.

S. 1221. An act for the relief of J. de L. Lafitte—to the Committee on Claims.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 12843. An act to amend the seventh section of the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, and the several acts amendatory thereto;

H. R. 11536. An act granting an increase of pension to James D. Hudson;

H. R. 11129. An act granting an increase of pension to Thomas J. Lindsey;

H. R. 8717. An act for the relief of Jacob Pickens;

H. R. 15328. An act to approve certain final proofs in the Chamberlain land district, South Dakota;

H. R. 10480. An act for the relief of certain settlers upon land within the indemnity limits of the present St. Paul, Minneapolis and Manitoba Railway Company;

H. R. 4461. An act to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes; and

H. R. 20. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee; in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes.

WITHDRAWAL OF PAPERS.

Mr. DALE, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Bridget Nolan, Fifty-ninth Congress, no adverse report having been made thereon.

Mr. OVERSTREET. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 28 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named as follows:

Mr. MOON of Pennsylvania, from the Committee on Revision of the Laws, to which was referred the bill of the House (H. R. 17984) to provide a code of laws for the United States, reported the same without amendment, accompanied by a report (No. 3200); which said bill and report were referred to the House Calendar.

Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 15343) for the recognition of services of a military nature rendered by certain civilians in the late war with Spain, reported the same with amendment, accompanied by a report (No. 3204); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 17563) to amend an act entitled "An act granting to the Choctaw, Oklahoma and Gulf Railroad Company the power to sell and convey to the Chicago, Rock Island and Pacific Railway Company all the railway property, rights, franchises, and privileges of the Choctaw, Oklahoma and Gulf Railroad Company, and for other purposes," approved March 3, 1905, reported the same without amendment, accompanied by a report (No. 3205); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 1887) granting a pension to Joseph Brooks, reported the same with amendment, accompanied by a report (No. 3170); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4669) granting a pension to Joseph E. Green, reported the same without amendment, accompanied by a report (No. 3171); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9276) granting a pension to Mary O'Hare, reported the same with amendment, accompanied by a report (No. 3172); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11898) granting a pension to Lars F. Wadsten, reported the same with amendment, accompanied by a report (No. 3173); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13227) granting a pension to Robert Blanchett, reported the same with amendment, accompanied by a report (No. 3174); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13228) granting a pension to Augustus Hathaway, reported the same with amendment, accompanied by a report (No. 3175); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13229) granting an increase of pension to Sarah E. Holland, reported the same without amendment, accompanied by a report (No. 3176); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13232) granting an increase of pension to Penina Owens, reported the same with amendment, accompanied by a report (No. 3177); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13233) granting an increase of pension to Jesse A. B. Thorne, reported the same without amendment, accompanied by a report (No. 3178); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15490) granting a pension to Mary E. Darcy, reported the same with amendment, accompanied by a report (No. 3179); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15761) granting an increase of pension to Lafayette North, reported the same with amendment, accompanied by a report (No. 3180); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16993) granting an increase of pension to Melroe Tarter, reported the same with amendment, accompanied by a report (No. 3181); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17012) granting an increase of pension to Mary Thackara, reported the same without amendment, accompanied by a report (No. 3182); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17085) granting an increase of pension to George W. Olis, reported the same with amendment, accompanied by a report (No. 3183); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17558) granting a pension to Lizzie H. Prout, reported the same with amendment, accompanied by a report (No. 3184); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17597) granting an increase of pension to Charles Lee, reported the same with amendment, accompanied by a report (No. 3185); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17644) granting an increase of pension to Henry C. Eastler, reported the same without amendment, accompanied by a report (No. 3186); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17690) granting a pension to Ellen E. Leary, reported the same with amendment, accompanied by a report (No. 3187); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17761) granting an increase of pension to Thomas J. Mackey, reported the same without amendment, accompanied by a report (No. 3188); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17842) granting a pension to Josephine Virginia Sparks, reported the same with amendment, accompanied by a report (No. 3189); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17854) granting an increase of pension to John Eubanks, reported the same with amendment, accompanied by a report (No. 3190); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 1165) granting an

increase of pension to James Moss, reported the same without amendment, accompanied by a report (No. 3191); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1248) granting a pension to Elizabeth B. Bean, reported the same with amendment, accompanied by a report (No. 3192); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1308) granting an increase of pension to Emilie Grace Reich, reported the same with amendment, accompanied by a report (No. 3193); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 1733) granting an increase of pension to George W. Trice, reported the same without amendment, accompanied by a report (No. 3194); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2115) granting a pension to Carrie E. Costinett, reported the same without amendment, accompanied by a report (No. 3195); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2378) granting an increase of pension to Maria Leuckart, reported the same without amendment, accompanied by a report (No. 3196); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3112) granting an increase of pension to James H. Gardner, reported the same without amendment, accompanied by a report (No. 3197); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3819) granting an increase of pension to William H. Houston, reported the same without amendment, accompanied by a report (No. 3198); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4309) granting an increase of pension to Adele Jeanette Hughes, reported the same without amendment, accompanied by a report (No. 3199); which said bill and report were referred to the Private Calendar.

Mr. TALBOTT, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3393) granting an honorable discharge to Galen E. Green, reported the same without amendment, accompanied by a report (No. 3202); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. CAPRON, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 10048) correcting the military record of Adolphus Yuncker, reported the same adversely, accompanied by a report (No. 3203); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. PARSONS: A bill (H. R. 18077) to empower the government of Porto Rico, subject to such restrictions as the Secretary of War may impose, to authorize the construction or extension of wharves, piers, or other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto—to the Committee on Insular Affairs.

By Mr. HULL: A bill (H. R. 18078) providing for an additional chaplain of the United States Army, to be assigned to the Corps of Engineers—to the Committee on Military Affairs.

By Mr. SULZER: A bill (H. R. 18079) to authorize the United States Government to participate in the international exposition to be held at Milan, Italy, during the year 1906, and to appropriate money in aid thereof—to the Committee on Industrial Arts and Expositions.

By Mr. LAMAR: A bill (H. R. 18080) to provide for the erection of a public building at the city of Apalachicola, State of Florida—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 18081) to provide for sittings of the United States circuit and district courts of the northern district of Florida at the city of Apalachicola, in said district—to the Committee on the Judiciary.

By Mr. RHODES: A bill (H. R. 18082) to correct the military record of the officers and enlisted men of the Enrolled Missouri Militia and all other militia organizations of the State of Missouri that cooperated with the military forces of the United States in suppressing the war of the rebellion—to the Committee on Military Affairs.

By Mr. GREENE: A bill (H. R. 18083) to provide for seats for women employed in mercantile establishments—to the Committee on the Judiciary.

By Mr. JENKINS: A bill (H. R. 18084) to extend the time for the relief of certain settlers upon the Wisconsin Central Railroad and The Dalles military road land grants, as provided for in chapter 1394, United States Statutes at Large, approved April 19, 1904—to the Committee on the Public Lands.

By Mr. BELL of Georgia: A bill (H. R. 18085) for the relief of the First Georgia State Troops—to the Committee on War Claims.

By Mr. PARSONS: A bill (H. R. 18086) making appropriations for the repair and improvement of the court-house and post-office building at New York City, N. Y., and the sidewalks surrounding the same—to the Committee on Appropriations.

By Mr. SMITH of Kentucky: A bill (H. R. 18087) for the relief of the State of Kentucky—to the Committee on War Claims.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BOWERSOCK: A bill (H. R. 18088) granting an increase of pension to John W. Lasswell—to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 18089) granting an increase of pension to Daniel J. Harte—to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Ohio: A bill (H. R. 18090) granting an increase of pension to Asa D. Farnam—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18091) granting a pension to Huldah Harden—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18092) granting an increase of pension to Andrew M. Logan—to the Committee on Invalid Pensions.

By Mr. CANDLER: A bill (H. R. 18093) granting an increase of pension to Thomas J. Bowser—to the Committee on Invalid Pensions.

By Mr. DEEMER: A bill (H. R. 18094) granting an increase of pension to William G. Melick—to the Committee on Invalid Pensions.

By Mr. FLOOD: A bill (H. R. 18095) for the relief of Virgil A. Fitzgerald, of Montebello, Nelson County, Va.—to the Committee on War Claims.

Also, a bill (H. R. 18096) for the relief of Bland Massie—to the Committee on War Claims.

By Mr. FULKERSON: A bill (H. R. 18097) granting an increase of pension to Joseph Gigons—to the Committee on Invalid Pensions.

By Mr. HALE: A bill (H. R. 18098) granting an increase of pension to Sarah S. Conway—to the Committee on Pensions.

Also, a bill (H. R. 18099) granting an increase of pension to John W. Carter—to the Committee on Invalid Pensions.

By Mr. HAMILTON: A bill (H. R. 18100) for the relief of Charles H. Lockwood—to the Committee on Military Affairs.

By Mr. HUGHES: A bill (H. R. 18101) for the relief of the heirs of Edward and William Holderby—to the Committee on War Claims.

By Mr. LAMAR: A bill (H. R. 18102) for the relief of Anna E. Wilson—to the Committee on War Claims.

Also, a bill (H. R. 18103) for the relief of Anna E. Wilson—to the Committee on War Claims.

Also, a bill (H. R. 18104) granting a pension to Wesley Duncan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18105) granting an increase of pension to John A. Lyle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18106) granting an increase of pension to Mary E. Patterson—to the Committee on Pensions.

By Mr. CHARLES B. LANDIS: A bill (H. R. 18107) granting an increase of pension to Oren M. Harlan—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: A bill (H. R. 18108) to remove the charge of desertion from the military record of Frederick W. Weeks—to the Committee on Military Affairs.

By Mr. LOUDENSLAGER: A bill (H. R. 18109) granting an increase of pension to Abraham E. Sheppard—to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 18110) granting an increase of pension to Asail Brown—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 18111) for the relief of Mrs. Georgia M. Marks—to the Committee on the District of Columbia.

By Mr. NEEDHAM: A bill (H. R. 18112) granting an increase of pension to Mary L. Eaton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18113) granting an increase of pension to Louisa M. Sees—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 18114) granting an increase of pension to Henry B. Parker—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Kentucky: A bill (H. R. 18115) granting a pension to P. F. Edwards—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18116) granting an increase of pension to Green Evans—to the Committee on Pensions.

By Mr. RIXEY: A bill (H. R. 18117) for the relief of Oscar von Hoffmann—to the Committee on War Claims.

By Mr. SCROGGY: A bill (H. R. 18118) for the relief of John H. Cruse—to the Committee on War Claims.

Also, a bill (H. R. 18119) granting an increase of pension to W. P. Jackson—to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 18120) relating to the military record of George W. Elliott—to the Committee on Military Affairs.

Also, a bill (H. R. 18121) granting an increase of pension to John W. Jones—to the Committee on Invalid Pensions.

By Mr. STANLEY: A bill (H. R. 18122) granting an increase of pension to John Coombs—to the Committee on Invalid Pensions.

By Mr. TIRRELL: A bill (H. R. 18123) to refund legacy taxes illegally collected—to the Committee on Claims.

By Mr. WADSWORTH: A bill (H. R. 18124) granting an increase of pension to Theodore T. Davis—to the Committe on Invalid Pensions.

By Mr. WEISSE: A bill (H. R. 18125) granting an increase of pension to William Griasa—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 18126) granting a pension to George H. Mothersbaugh—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 18127) granting a pension to Martha S. Davis—to the Committee on Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 18128) granting an increase of pension to Andrew N. Danley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18129) to correct the military record of Wilson Smith—to the Committee on Military Affairs.

By Mr. DARRAGH: A bill (H. R. 18130) granting an increase of pension to Barlow Davis—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 12637) for the relief of Lawson M. Fuller, captain, Ordnance Department, United States Army—Committee on Military Affairs discharged, and referred to the Committee on Claims.

A bill (H. R. 233) to provide for the settlement of certain claims of officers and enlisted men of the Army for the loss or destruction, without fault or negligence on the part of said officers and men, of property belonging to them in the military service of the United States—Committee on Military Affairs discharged, and referred to the Committee on Claims.

A bill (H. R. 361) to extend the provisions of the act of March 3, 1885, relative to officers and enlisted men of the United States Army—Committee on Military Affairs discharged, and referred to the Committee on Claims.

A bill (H. R. 3348) for the relief of Charles C. Bauman—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 5147) for the relief of George E. Hoffman—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 12139) for the relief of the representatives of James Hooper—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 5600) for the relief of John Nay—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN of Maine: Petition of Elizabeth Wadsworth Chapter of the Daughters of the American Revolution, Portland, Me., for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

By Mr. BARCHFELD: Petition of Pennsylvania lines, for Government experiments in structural material—to the Committee on Appropriations.

Also, petition of Charles Este and Henson & Pearson, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURKE of Pennsylvania: Petition of Pennsylvania lines, for an appropriation for Geological Survey to experiment in structural materials—to the Committee on Appropriations.

By Mr. BENNETT of Kentucky: Paper to accompany bill for relief of E. W. Bell—to the Committee on Invalid Pensions.

Also, petition of the Covington (Ky.) Company, for bill H. R. 15257—to the Committee on the Post-Office and Post-Roads.

Also, petition of the General Federation of Women's Clubs and Mrs. W. S. Lafferty, of the Wednesday Club, of Cynthiana, Ky., for an appropriation to investigate the industrial condition of women—to the Committee on Appropriations.

Also, petition of citizens of Kentucky, for the Gardner bill favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, paper to accompany bill for relief of Benjamin Puckett—to the Committee on Invalid Pensions.

Also, petition of Lilla Breed, Kentucky Consumers' League, for legislation to correct evils of child labor and for a child's bureau—to the Committee on Labor.

By Mr. BURKE of Pennsylvania: Petition of the Yellow Pine Company, Henson & Pearson, and Charles Este, for bill H. R. 5281 (pilotage bill)—to the Committee on the Merchant Marine and Fisheries.

By Mr. BURLEIGH: Petition of Madison Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. CAMPBELL of Ohio: Paper to accompany bill for relief of Asa D. Farnam—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Medcalf A. Bell—to the Committee on Invalid Pensions.

By Mr. DALZELL: Petition of citizens of Pittsburg, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DAWSON: Petition of the National Council of Women of the United States, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

By Mr. FLACK: Petition of The Herald-Record, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. FLOOD: Petition of citizens of Clifton Forge, Va., for bill promoting the American merchant marine—to the Committee on the Merchant Marine and Fisheries.

By Mr. GRAHAM: Petition of Pennsylvania lines, for an appropriation for Government experiments with structural material—to the Committee on Appropriations.

Also, petition of Dr. J. C. Wilson, for the metric system—to the Committee on Coinage, Weights, and Measures.

Also, petition of Henson & Pearson, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Charles Este, for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. GREENE: Petition of Frank A. Morrill et al., of Somerset, Mass., for consolidation of third and fourth-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Oklahoma, for the statehood bill—to the Committee on the Territories.

By Mr. GOLDFOGLE: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the American Federation of Labor, against bill to abolish compulsory pilotage (H. R. 5281)—to the Committee on the Merchant Marine and Fisheries.

By Mr. HALE: Petition of Mary M. Patton, executrix of the estate of Mary L. Byrd, deceased, late sole heir of Robert K.

Byrd, deceased, for reference of her claim to the Court of Claims under the Bowman Act—to the Committee on War Claims.

By Mr. HINSHAW: Paper to accompany bill for relief of Brice P. Munns—to the Committee on Invalid Pensions.

By Mr. HOGG: Petition of the Chamber of Commerce of Grand Junction, Colo., for the bill by Mr. HOGG for the relief of settlers under proposed Government canals—to the Committee on Irrigation of Arid Lands.

By Mr. LAMB: Petition of citizens of Virginia, for the Gardner bill favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. LEE: Paper to accompany bill for relief of N. H. Montgomery, heir of Barbara McGinnis—to the Committee on War Claims.

By Mr. LITTLEFIELD: Petition of Washington Council, No. 9, of Springvale, Me., and Morancy Council, No. 58, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Paris Manufacturing Company and the Hiram Lumber Company, for postal law for two classes of mail—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Maine, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of many citizens of Maine, against repeal of the Grant law for a tax of 10 cents per pound on all imitation butter—to the Committee on Agriculture.

Also, petition of Division No. 40, Brotherhood of Locomotive Engineers, against the railway rate bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Maine, favoring the postage-stamp certificate plan of John M. Hubbard, assistant postmaster of Chicago—to the Committee on the Post-Office and Post-Roads.

By Mr. KELIHER: Petition of Indian Hill Council, No. 11, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, resolution of the New England Shoe and Leather Association, approving General Order No. 167, relative to contracts for supplies by the Secretary of War—to the Committee on Military Affairs.

Also, petition of the Marine Engineers' Beneficial Association, for bill H. R. 5281 (pilotage)—to the Committee on the Merchant Marine and Fisheries.

By Mr. KNAPP: Petition of citizens of Watertown, N. Y., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MACON: Paper to accompany bill for relief of estate of James S. Ford—to the Committee on War Claims.

By Mr. MAHON: Paper to accompany bill for relief of Asher O. Rugland, heir of Montgomery P. Asher—to the Committee on War Claims.

By Mr. MANN: Petition of Division No. 264, Amalgamated Association of Street and Electric Railway Employees of America, for the present Chinese-exclusion act—to the Committee on Foreign Affairs.

Also, petition of the National Council of Women, held in Toledo, Ohio, for bills S. 50 and H. R. 4462—to the Committee on the District of Columbia.

Also, petition of the Sorosis Club, of New York, for bills S. 50 and H. R. 4462 (child-labor law)—to the Committee on the District of Columbia.

Also, petition of citizens of Chicago, Ill., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MARSHALL: Petition of citizens of Lisbon, Ransom County, N. Dak., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. MUDD: Paper to accompany bill for relief of heirs of Abel Sanner—to the Committee on War Claims.

By Mr. PADGETT: Paper to accompany bill for relief of Henry B. Parker—to the Committee on Invalid Pensions.

By Mr. RICHARDSON: Petition of citizens of New Decatur, against printing names on stamped envelopes by the Government—to the Committee on the Post-Office and Post-Roads.

By Mr. SCHNEEBELI: Petition of George F. Craige & Co., E. Sander & Co., the Keystone Watch Company, H. E. Neff, E. B. Hallowell & Co., Thomas B. Hammer, R. A. and J. J. Williams, and Miller Robinson & Co., for bill H. R. 5281—to the Committee on the Merchant Marine and Fisheries.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of James Hoover—to the Committee on Invalid Pensions.

By Mr. VAN WINKLE: Petition of citizens of the Ninth Congressional district, for the Howell naturalization bill—to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Paper to accompany bill for relief of Andrew D. Danley—to the Committee on Invalid Pensions.

Also, petition of Martin C. Ribsam, Trenton, N. J., against free distribution of seeds—to the Committee on Agriculture.

Also, petition of citizens of High Bridge, N. J., and Ellis De Mond, of Bernardsville, N. J., for bill H. R. 15442—to the Committee on Immigration and Naturalization.

Also, petition of John Lucas & Co., of Philadelphia, Pa., against bill H. R. 8988—to the Committee on Coinage, Weights, and Measures.

SENATE.

FRIDAY, *April 13, 1906.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

FINDINGS OF COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of James F. Fitzhugh, administrator of William E. Fitzhugh, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Isaac Hazlett *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Francis C. Green, executor of the estate of Francis M. Green, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Charles F. Bennett, administrator of Nicholas Lynch, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Henrietta L. Tucker, widow of Thomas B. Tucker, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Esther and Theresa Redington, only heirs of Robert Redington, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Rebecca Nields, executrix of Henry C. Nields, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 5026) providing for the establishment of a life-saving station at or near Neah Bay, in the State of Washington, and for the construction of a first-class ocean-going tug to be used in connection therewith, for life-saving purposes in the vicinity of the north Pacific coast of the United States, and so forth, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17359) making appropriations to supply additional ur-